

2015 Summary of Legislation



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INTRODUCTION

This publication includes summaries of the legislation enacted by the 2015 Legislature. Not summarized are bills of a limited, local, technical, clarifying, or repealing nature, and bills that were vetoed (sustained). However, these bills are listed beginning on page 174.

During the 2015 Session, 746 bills were introduced: 311 in the Senate and 435 in the House. Of these 746 bills, 105 (14.0 percent) became law: 41 Senate bills and 64 House bills. Further, of the 105 bills becoming law, 98 (93.3 percent) were introduced by committees and 7 (6.7 percent) were introduced by individual legislators.

The Governor vetoed one bill and one line item in an appropriations bill. One veto was overridden (House Sub. for SB 117, the Kansas Transportation Network Company Services Act). The line item veto was sustained.

A total of 573 bills will be carried over to the 2016 Session of the Legislature.

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ABORTION

Creation of the Unborn Protection from Dismemberment Act; SB 95

SB 95 creates the Kansas Unborn Child Protection from Dismemberment Abortion Act (Act). The bill defines relevant terms, establishes exceptions for the prohibition on dismemberment abortions, clarifies the individuals exempt from liability for involvement in dismemberment abortions, allows for injunctive relief and civil damages, establishes who may seek civil damages and what the damages include, authorizes the award of reasonable attorney fees, establishes penalties for violation of the Act, specifies the conditions under which the court orders the anonymity of a woman upon whom an abortion has been performed or attempted be preserved from public disclosure, clarifies no right to abortion nor a right to a particular method of abortion would be created, and includes a severability clause. Specific bill details follow.

Definitions

The bill defines several terms, including “abortion” and “dismemberment abortion.” Dismemberment abortion is defined as an abortion “with the purpose of causing the death of an unborn child, knowingly dismembering a living unborn child and extracting such unborn child one piece at a time from the uterus through the use of clamps, grasping forceps, tongs, scissors, or similar instruments that, through the convergence of two rigid levers, slice, crush, or grasp at a portion of the unborn child’s body in order to cut or rip it off.”

The bill establishes dismemberment abortion does not include an abortion that uses suction to dismember the body of an unborn child. The bill clarifies a dismemberment abortion includes the use of suction subsequent to a dismemberment abortion to extract fetal parts after the death of the unborn child. “Medical emergency” and “knowingly” also are defined.

Restrictions on the Performance of a Dismemberment Abortion

The bill prohibits the performance of or the attempt to perform a dismemberment abortion unless the procedure is necessary to preserve the life of the pregnant woman or a continuation of the pregnancy would cause a substantial and irreversible physical impairment of a major bodily function. A claim or diagnosis the woman would engage in conduct resulting in her death or in substantial and irreversible physical impairment of a major bodily function does not allow for a dismemberment abortion under the Act.

Exemption from Liability

The following persons are exempt from liability under the Act:

- The woman upon whom an abortion is performed or attempted;
- A nurse, technician, secretary, receptionist, or other employee or agent who is not a physician, but acts under the direction of a physician; and

- A pharmacist or other individual who is not a physician, but who fills a prescription or provides instruments or materials used in an abortion at the direction of or to a physician.

Available Causes of Action and Damages

The Attorney General or any district or county attorney with appropriate jurisdiction is authorized to bring a cause of action for injunctive relief against a person who performs or attempts to perform a dismemberment abortion in violation of the Act and, if the order is granted, prohibits the defendant from performing or attempting to perform any dismemberment abortions in violation of the Act.

A cause of action for civil damages is available to the following persons against a person who performs a dismemberment abortion in violation of the Act (unless the plaintiff is not the woman upon whom the abortion was performed and the pregnancy is a result of the plaintiff's criminal conduct):

- A woman upon whom a dismemberment abortion is performed in violation of the Act;
- The father of the unborn child, who is married to the woman at the time the dismemberment abortion is performed; or
- The parents or custodial guardians of a woman under 18 years of age at the time of the abortion or who dies as a result of the abortion.

Damages awarded in a cause of action for civil damages include money damages for psychological and physical damages caused by a dismemberment abortion, statutory damages equal to three times the cost of the dismemberment abortion, injunctive relief, and reasonable attorney fees under specified conditions.

In causes of action for injunctive relief, in addition to the awarding of other relief, attorney fees are awarded to a successful plaintiff or to a successful defendant if the court finds the plaintiff's action was frivolous and brought in bad faith. A woman upon whom a dismemberment abortion is performed or attempted is not assessed attorney fees, unless the court finds her action was frivolous or brought in bad faith.

Penalties for Violation of Act

A first conviction for a dismemberment abortion performed or attempted in violation of the Act is a Class A person misdemeanor. A second or subsequent conviction is a severity level 10, person felony.

Anonymity of Woman Absent Consent to Disclose

In every civil, criminal, or administrative proceeding or action arising out of a violation of the conditions under which an abortion on a viable or pain-capable unborn child or a partial birth or a dismemberment abortion may be performed, the court has authority to determine whether

to preserve from public disclosure the anonymity of the woman upon whom the unlawful abortion is performed or attempted if the woman did not consent to the disclosure. Upon a ruling the anonymity of the woman should be preserved, the court is authorized to issue orders to the parties, witnesses, and counsel; direct the record be sealed; and exclude individuals from the courtroom or hearing rooms, as needed, to safeguard her identity from public disclosure.

Orders to preserve the identity of the woman require accompanying specific written findings explaining the need for anonymity, why the order is essential, the narrow tailoring of the order to accomplish anonymity, and why no reasonable less restrictive alternative exists. Unless a woman upon whom an unlawful abortion is performed or attempted consents to the disclosure of her identity, anyone other than a public official bringing a cause of action for a violation of the conditions under which an abortion on a viable or pain-capable unborn child or a partial birth or dismemberment abortion could be performed is required to do so under a pseudonym. The anonymity provisions are not to be construed to conceal the identity of the plaintiff or witnesses from the defendant or attorneys for the defendant.

Right to an Abortion not Recognized or Created

The bill does not create or recognize a right to an abortion or to a specific abortion method.

Severability Clause

A holding that a provision or application of the Act is invalid would not affect the validity of the remaining provisions that could be given effect without the invalid provision or application. The provisions of the Act are declared to be severable.

Abortion—Administration of Abortifacient Drugs; Senate Sub. for HB 2228

Senate Sub. for HB 2228 adds language to law concerning the administration of abortifacient drugs.

The bill requires that, except in the case of an abortion performed in a hospital through inducing labor, when RU-486 (mifepristone) is used for the purpose of inducing an abortion, the drug must initially be administered by or in the same room as and in the physical presence of the physician prescribing, dispensing, or otherwise providing the drug to the patient.

The bill also requires that when any drug other than RU-486 (mifepristone) is used for the purpose of inducing an abortion, the prescription or the drug must be given to the patient in the same room as and in the physical presence of the physician prescribing, dispensing, or otherwise providing the drug to the patient.

These requirements will not apply in the case of a medical emergency.

AGRICULTURE AND NATURAL RESOURCES

Local Conservation Linked Deposit Lending Program; House Sub. for SB 36

House Sub. for SB 36 creates the Local Conservation Linked Deposit Lending Program. The purpose of the program is to facilitate loans by eligible financial institutions for the construction, design, rehabilitation, and enhancement of nonpoint source water pollution control systems for public or private owners. The bill gives authority to the Secretary of Health and Environment (Secretary) to prepare a nonpoint source management plan identifying eligibility criteria, practices eligible for funding, eligibility criteria for borrowers, eligibility criteria for costs, project completion and certification requirements, and process. Under the bill, eligible borrowers include individuals, limited liability agricultural companies, limited agricultural partnerships, family farm corporations, responsible parties, or owners of real property not including the State, state agencies, the federal government, or any agency of the federal government.

The Secretary will authorize a linked deposit in the amount certified using long-term investment funds available from the Kansas Water Pollution Control Revolving Fund or from other sources available to the Secretary into eligible financial institutions in the form of low-yielding certificates of deposit or time or demand deposits or other authorized deposits of investments.

An eligible financial institution will be required to enter into an agreement with the Secretary which includes the requirements necessary to implement the program. In addition, the bill permits eligible financial institutions that agree to receive local conservation loan deposits to accept and review applications for loans from eligible borrowers. The financial institutions can then approve or reject a loan application based on the evaluation of the borrower, the amount of the loan, and other appropriate considerations in the application and using all usual lending standards.

The Secretary is authorized to disseminate information regarding eligibility for potential participants in the program and may accept or reject a project application based on the determination of the project being consistent with the criteria in the nonpoint source management plan. In addition, the Secretary is authorized to adopt rules and regulations.

The bill also stipulates the loans authorized by the program will not be deemed to be a debt or liability of the State or the Secretary, and will not constitute a pledge of the State, any political subdivision, or the Secretary.

Domesticated Deer; SB 46

SB 46 updates law regarding identification of domesticated cervids (a term meaning all members of the deer family, including elk, moose, and all species of deer) by requiring each animal entering or leaving a premises, either alive or dead, to have official identification, as identified in rules and regulations of the Animal Health Commissioner of the Department of Agriculture. Official identification is not required if the domesticated cervid is moved to a licensed or registered slaughter facility in Kansas.

Augmentation; Rattlesnake Creek Subbasin; Multi-year Flex Accounts; Water Conservation; Public Water Supply Storage; SB 52

SB 52 amends law regarding water, including augmentation, multi-year flex accounts, and public water supply storage, and creates law regarding consideration of conservation measures. Specific information on these topics follows.

Augmentation

The bill allows the Rattlesnake Creek Subbasin (located in hydrologic unit code 11030009) water right holders to utilize augmentation for the replacement in time, location, and quantity of water that was unlawfully diverted from senior water right holders, if the replacement water is available and offered voluntarily.

The bill also makes several technical corrections to the law and clarifies it is unlawful for any person to divert or take any water that has been released from storage under authority of water reservation rights held by the State.

Multi-year Flex Accounts

The bill makes two changes to law that establishes multi-year flex accounts (MYFAs) for water appropriations for irrigation.

[Note: A MYFA is a voluntary, five-year term permit that temporarily replaces an existing (base) water right. The term permit allows the water right holder to exceed that holder's annual authorized quantity in any year, but restricts total pumping over the five-year period. MYFAs do not change the underlying base water right. At the end of the five-year period, the water right holder can choose whether to re-enroll that water right into another MYFA.]

First, the bill allows a MYFA term permit holder to make a change to the permit's authorized place of use by up to ten acres or 10 percent of the authorized place of use, whichever is less. Previous law did not allow any changes to a MYFA term permit's authorized place of use.

Second, the bill allows MYFA term permit holders, who re-enroll in a MYFA, to roll-over their unused quantity of water available at the end of the MYFA to the new MYFA. The amount of unused water that can be rolled over will be capped at an amount that is less than or equal to 100 percent of the base average use (a calculated average amount of water diverted for beneficial use during the period of calendar years 2000 through 2009). The total amount of water in any MYFA shall not exceed five times the authorized quantity of the base water right.

Consideration of Conservation Measures

The bill requires the Chief Engineer of the Kansas Department of Agriculture to give due consideration to water management or conservation measures previously implemented by a water right holder when implementing further limitations on a water right. The Chief Engineer is required to take into account reductions in water use, changes in water management practices,

and other measures undertaken by the water right holder. The new law is part of and supplemental to the Kansas Water Appropriation Act.

In addition, the bill amends the Kansas Water Appropriation Act to require the Chief Engineer to give due consideration to water users who already have implemented reductions in water use resulting in voluntary conservation measures when reviewing local enhanced management plans.

Public Water Supply Storage

The bill changes the rate of interest charged to a local entity by the State for the purchase of public water supply storage in a class I, II, or III project under the Multipurpose Small Lakes Act, as administered by the Kansas Water Office.

Previously, the interest on the State's costs incurred in providing the storage was 4 percent or calculated at a rate *per annum*, equal to the greater of the average rate of interest earned during the past calendar year on repurchase agreements of less than 30 days duration entered into by the Pooled Money Investment Board, less 5 percent.

The bill changes the calculation of the interest to a rate *per annum*, equal to the average of the monthly net earnings rate for the Pooled Money Investment Portfolio for the preceding calendar year, for each year of storage.

Water Conservation Areas; Agricultural Liming Materials; Arkansas River Gaging Fund; SB 156

SB 156 establishes water conservation areas, prescribes testing methods for agricultural liming material, and provides for the operation and maintenance of groundwater gage sites in the Arkansas River Basin.

Water Conservation Areas

The bill permits a water right owner or a group of water right owners in a designated area to enter into a consent agreement and order with the Chief Engineer to establish a water conservation area. The bill requires the water right owner or owners to submit a management plan to the Chief Engineer. The management plan is the basis of the consent agreement and order and must:

- Include geographic boundaries;
- Include the written consent of all water right owners in the area;
- Include a finding that one or more of the following circumstances exist: groundwater levels are declining or have declined; the rate of withdrawal equals or exceeds the rate of recharge; preventable waste of water is occurring or may occur; or unreasonable deterioration of water quality is occurring or likely to occur;

- Include the proposed duration of the water conservation area and any process by which water right owners may request to be added or removed;
- Include goals and corrective control provisions to address declining water levels, withdrawal rates which equal or exceed the rate of recharge, preventing waste of water, or water quality deterioration;
- Give due consideration to water users who have implemented voluntary reductions in water use; and
- Include compliance monitoring and enforcement and be consistent with state law.

The bill provides that if the corrective control provisions of a water conservation area conflict with rules and regulations of a groundwater management district (GMD) or the requirements of a local enhanced management area (LEMA) or intensive groundwater use control area (IGUCA) that result in greater overall conservation of water, then the Chief Engineer is authorized to amend the provisions of the water conservation area to conform to any rules and regulations or requirements that result in greater conservation of water.

Prior to execution of the consent agreement and order of designation, the bill requires the Chief Engineer to notify in writing the GMD within which any participating water right is situated. The GMD is given an opportunity to provide a written recommendation regarding the water conservation area and management plan within 45 days of notification by the Chief Engineer.

In addition, the bill requires periodic review of the consent agreement and order of designation which may be initiated by the Chief Engineer or upon request of the water right owners in the water conservation area. The review must be conducted at least once every ten years. Further, the Chief Engineer may, with the consent of all participating water right owners, amend a consent agreement or order of designation for a water conservation area.

The bill also gives rule and regulation authority to the Chief Engineer and makes these provisions part of and supplemental to the Kansas Water Appropriation Act.

Agricultural Liming Material Testing

The bill eliminates the reference to the testing methods prescribed by the Association of Official Analytical Chemists with regard to the testing of agricultural liming materials sold, offered, or exposed for sale in Kansas.

Groundwater Gages in the Arkansas River Basin

The bill adds the operation and maintenance of stateline groundwater gage sites in the Arkansas River Basin as a priority expenditure from the Arkansas River Gaging Fund.

In addition, the bill increases the cap on the amount of funding received from oil and gas lease royalties in five counties from \$75,000 to \$95,000.

**Veterinary Medicine Licenses; Veterinary Training Program for Rural Kansas; Euthanasia;
SB 189**

SB 189 requires any person who practices veterinary medicine on client-owned animals as a part of the person's employment at a school of veterinary medicine in Kansas to be a licensed veterinarian or possess an institutional license, beginning July 1, 2016. The fee for an application for an institutional license will be not less than \$50 nor more than \$250. The annual fee for renewal will be not less than \$20 nor more than \$100. Both fees will be established by the Board of Veterinary Examiners (Board). The bill also requires notices of the expiration of institutional licenses to be mailed to those holding institutional licenses and to the school of veterinary medicine not later than 30 days prior to the license expiration.

In addition, the bill establishes the procedure and requirements for obtaining an institutional license to practice veterinary medicine while employed by a school of veterinary medicine in the state from the Board. The bill requires the applicant to:

- Have a degree of doctor of veterinary medicine or its equivalent;
- Have passed the Kansas veterinary legal practice examination;
- Be a person of good moral character;
- Have paid the license application fee;
- Provide proof of employment with a school of veterinary medicine within Kansas;
- Certify that the person understands and agrees the institutional license is valid only for the practice of veterinary medicine associated with employment with the school of veterinary medicine; and
- Provide additional information or proof as required by the Board in rules and regulations.

Further, on and after July 1, 2016, the Kansas Veterinary Practice Act (Act) is amended to specifically permit:

- The practice of veterinary medicine at a school of veterinary medicine in Kansas by a person possessing an institutional license;
- Any person, including a member of the faculty, to give lectures, instructions, or demonstrations at the school of veterinary medicine or in connection with continuing education courses, except when it involves the practice of veterinary medicine on client-owned animals; or
- The temporary practice of veterinary medicine at a school of veterinary medicine, for a period of 30 days per calendar year, by a person eligible to obtain a veterinary or institutional license upon examination and application.

Under the bill, the Board, by rules and regulations, is allowed to waive the payment of a renewal fee for an institutional license during the period when the person is on active military duty during a time of national emergency for a period not to exceed three years.

In addition, the bill removes the sunset on the Veterinary Training Program for Rural Kansas and allows the program to continue. Under previous law, the program would have sunset on July 1, 2016, and no further program agreements could have been entered after that date.

The bill requires the Dean of the College of Veterinary Medicine at Kansas State University to submit an annual report to the Senate Committee on Agriculture and the House Committee on Agriculture and Natural Resources, which will include details on the Veterinary Training Program for Rural Kansas, the Veterinary Diagnostic Laboratory, the National Bio and Agro-Defense Facility (NBAF), and other programs of the college.

Further, the bill requires the Animal Health Commissioner of the Kansas Department of Agriculture to promulgate rules and regulations by December 31, 2015, regarding acceptable forms of euthanasia. The rules and regulations may be more strict than euthanasia standards set by the American Veterinary Medical Association.

Conservation Easements for Watershed Districts; HB 2061

HB 2061 permits the Division of Conservation of the Kansas Department of Agriculture (KDA), in consultation with the State Conservation Commission, to take action necessary to restore, establish, enhance, and protect natural resources with conservation easements for the purpose of compensatory mitigation required under Section 404 of the federal Clean Water Act in addition to other powers and duties authorized by law.

This new authority permits the acceptance, purchase, or other acquisition of conservation easements on behalf of watershed districts for the purpose of protecting compensatory mitigation sites; contracts with engineering consultants, surveyors, and construction contractors for the purpose of restoration, establishment, and enhancement of natural resources; and the establishment of fees for the acquisition and administration of conservation easements held on behalf of watershed districts, acceptance of fees from state and local government agencies, and the assumption of responsibility to ensure the terms of the conservation easement are met, as approved by the KDA, for the length of the term of the easement for the fees that were accepted.

In addition, the bill creates the Compensatory Mitigation Fund where fees for the administration of mitigation credits will be deposited. The Fund will be administered by the Secretary of Agriculture, and all expenditures will be for conservation.

The bill also makes explicit that all costs associated with compensatory mitigation will be paid by the watershed district for which the KDA, Division of Conservation, holds the conservation easement. The KDA will be prohibited from spending moneys from the State General Fund or any special revenue funds for the purpose of accepting, purchasing, or acquiring conservation easements, with the exception of the Conservation Fund created by the bill. The KDA will be authorized to spend Conservation Fund moneys on the administration of conservation easements authorized by the bill, on behalf of watershed districts.

Additionally, the bill prohibits the KDA, Division of Conservation, from accepting, purchasing, or acquiring any conservation easement for any purpose other than those stated in the bill.

ALCOHOL, DRUGS, AND GAMBLING

Charitable Raffles and Bingo; Fantasy Sports Leagues; Kansas Lottery Act; Senate Sub. for HB 2155

Senate Sub. for HB 2155 creates the Kansas Charitable Gaming Act (Act) and amends the Kansas Lottery Act. The Act includes changes to the Bingo Act and creates new law concerning the regulation of charitable raffles. The bill also makes participation in fantasy sports leagues legal by including such sports leagues in the list of exceptions to the definition of what constitutes an illegal bet.

Bingo

Concerning changes to the Bingo Act, the bill does the following:

General Requirements and Restrictions

- Keeps license fees for bingo at \$25;
- Removes restrictions regulating the way bingo premises can be divided;
- Removes restrictions prohibiting the advertising of bingo (previously, advertising was allowed only pursuant to rules and regulations);
- Removes restrictions prohibiting other games of chance or contests where prizes are awarded from being conducted on a premise where bingo is being conducted; and
- Removes language excepting payment of prizes of less than \$200 from the requirement that licensees with gross receipts of \$1,000 or more must make all payments related to the management, operation, or conduct of bingo games from a bingo trust bank account.

Time, Location, and Number of Days Bingo Games May Be Conducted

- Removes restrictions regulating the number of days bingo games can be conducted at a premise other than the premise listed on the license (the previous limit was five days per year on a premise other than the premise listed on the license);
- Allows licensees to conduct bingo games in counties adjoining the county where the licensee is located;
- Removes restrictions limiting the number of days bingo games can be managed, operated, or conducted per week (the previous limit was two days per week);
- Removes restrictions limiting the number of times a premise can be used for bingo each week (the previous limit was three days per week);

- Removes restrictions limiting the number of regular, special, and progressive call bingo games that can be conducted in one bingo session (the previous limit was 25 games per session, no more than 5 of which could be special games);
- Removes restrictions limiting the number of licensees that may conduct bingo games at a given location in any one session (the previous limit was one licensee);
- Removes restrictions requiring a waiting period between bingo sessions (the previous requirement was 44 hours between bingo games on a premise or within 1,000 feet of a premise where bingo was conducted);
- Removes restrictions limiting where progressive bingo sessions can be conducted (previously, progressive bingo sessions could not be conducted at a location other than the specified location listed on the license); and
- Allows progressive bingo games to be conducted in conjunction with a session of bingo.

Number of Games Allowed in a Session of Bingo

- Removes restrictions limiting the number of progressive bingo games conducted during a single session of bingo (the previous limit was 2 games per session, with the entire progressive bingo game not exceeding 20 bingo sessions);
- Removes restrictions prohibiting limits on the number of instant bingo games that can be played in one session and the number of instant bingo tickets sold in a game of instant bingo (previously, there was no limit); and
- Removes restrictions limiting the number of mini games of bingo during a session (the previous limit was 30 games) and the time mini bingo can be conducted (previously, mini games could not be conducted more than 2 hours prior to first regular or special game or one hour after last regular or special game of bingo of a session).

Sale of Bingo Tickets and Supplies

- Removes restrictions limiting when instant bingo tickets can be sold (previously, bingo tickets could not be sold more than 2 hours prior to the start of the first regular or special game of call bingo or 1 hour after the termination of the last game of call bingo of a session) and how much sellers may charge for instant bingo tickets (the previous limit was \$2);
- Removes restrictions prohibiting the sale or use of bingo cards except as provided by rules and regulations (previously, only bingo faces could be distributed except as provided in rules and regulations);
- Removes the requirement that boxes of instant bingo tickets must be accompanied by flare with the business name of the distributor and the license

number to which the box is sold, if sold to a Kansas bingo licensee (flare with some information is still required); and

- Allows the Administrator of Charitable Gaming (Administrator), upon receiving notice, to revoke or suspend the license of an organization not providing full payment to a distributor of call bingo or instant bingo supplies within 90 days of the delivery of supplies.

Restrictions on Prizes

- Removes restrictions limiting the starting amount of a progressive game of bingo (the previous limit was \$400);
- Removes restrictions limiting the prize amount for single games of bingo (the previous limit was \$50 for regular call bingo, \$500 for special call bingo);
- Allows consolation prizes of up to a \$1,000 value (the previous limit was \$400 value);
- Allows the aggregate prize for a single session of call bingo to be increased annually based on increases in the Consumer Price Index; and
- Requires monetary prizes of \$1,199 or more to be paid by a check drawn on the bingo trust bank account of the licensee (previously, this was required for monetary prizes of \$500 or more).

Bingo Premise Rent and Leases

- Removes the requirement that lease documents be submitted to the Administrator at the Kansas Department of Revenue (KDOR) when bingo is conducted on leased premises or leased equipment is used to conduct a bingo game; and
- Removes requirements regulating the rent that can be charged for a leased premise (the previous requirement was that rental costs be fair and reasonable, and rent charged must not exceed 50 percent of the net proceeds for the session or the fair and reasonable rental value determined by the Administrator, whichever was less).

Restrictions on Personnel

- Removes restrictions limiting persons who lease premises and bingo licensees' ability to conduct drawings (previously, persons leasing bingo premises and bingo licensees were limited to participating in one drawing per session, and no more than four drawings per year);
- Removes language prohibiting a requirement that persons purchase something of value to participate in a drawing conducted by a licensee or lessor;

- Removes language allowing only a non-monetary prize worth less than \$25 to be awarded in such a drawing; and
- Allows employees of bingo licensees to assist in the conduct of games of bingo.

Raffles

Purpose

The bill states that charitable raffles are an important method of raising money for charitable purposes and are in the public interest. The bill also states the purpose and intent of the provisions concerning charitable raffles is to:

- Define the scope of charitable raffles;
- Set standards for the conduct of raffles which ensure honesty and integrity;
- Provide for means of accounting for moneys generated through raffles;
- Provide penalties for violations of laws and administrative rules and regulations related to raffles;
- Prevent commercialization of raffles;
- Prevent criminal participation in raffles; and
- Prevent diversion of funds from legitimate charitable purposes.

The bill allows raffles to be conducted by *bona fide* nonprofit religious, charitable, fraternal, educational, or veterans' organizations. The definitions of "nonprofit religious," "charitable," "fraternal," "educational," or "veterans" organizations are the same as those definitions used in continuing law for charitable bingo.

The KDOR is required to report to both the House and Senate Federal and State Affairs Committees on the status of raffles and raffle licensees in the State by January 15th each year through 2018.

Licensure

Any *bona fide* nonprofit religious, charitable, fraternal, educational, or veterans' organization may apply for a license to conduct a raffle. An application for a raffle license is required to include:

- The name and address of the organization;
- The place or location(s) or premises for which a license is sought;

- A sworn statement verifying the applying organization is a qualifying nonprofit organization, signed by the presiding officer and secretary of the organization;
- A sworn statement verifying that such organization is a *bona fide* nonprofit religious, charitable, fraternal, educational, or veterans' organization authorized to operate within the State of Kansas signed by the presiding officer and secretary of the organization;
- Other information as required by the Administrator; and
- An application fee, determined as follows:
 - Less than \$25,000 in annual gross raffle receipts - no application fee;
 - \$25,000 to \$50,000 in annual gross raffle receipts - \$25 license fee;
 - \$50,000 to \$75,000 in annual gross raffle receipts - \$50 license fee;
 - \$75,000 to \$100,000 in annual gross raffle receipts - \$75 license fee; and
 - More than \$100,000 in annual gross raffle receipts - \$100 license fee.

A license will be issued in the name of the organization licensed and will not be transferable or assignable. No license or renewal of a license will be issued to an organization if any of its officers, directors, officials, or persons employed on the premises have been convicted of, pleaded guilty to, or pleaded *nolo contendere* to a violation of state or federal gambling laws, or have forfeited bond to appear in court to answer charges for any such violation, or have been convicted of, pleaded guilty to, or pleaded *nolo contendere* to a crime which is a felony in any state. Licenses will expire on June 30 following the date of issuance.

A license will be required for each affiliated organization of any state or national nonprofit religious, charitable, fraternal, educational, or veterans' organization.

Restrictions on Licensees

Employees of licensees will be allowed to assist in the conduct of a raffle, but no person can receive any remuneration or profit for participating in the management, conduct, or operation of a charitable raffle, unless the remuneration or profit goes to the benefit of another nonprofit group.

Licensees will be required to report the name and address of any person winning a prize with a retail value of \$1,199 or more.

Each licensee will be required to keep a record of all charitable raffles managed, operated, or conducted by such licensee for three years following the date of a raffle. Because organizations raising less than \$25,000 in a calendar year are exempt from licensure requirements, those organizations are not licensees and also are exempt from the records requirements.

Structure of Raffle Regulation

The bill specifies the State has the exclusive power to regulate, license, and tax the management, operation, and conduct of and participation in charitable raffles. The Secretary of Revenue (Secretary) will appoint the Administrator who will be an unclassified employee and receive a salary set by the Secretary and approved by the Governor. The Administrator will be responsible for administering and enforcing the law concerning bingo and raffles. The bill requires the Secretary to adopt rules and regulations concerning the conduct of charitable raffles, including, but not limited to:

- Standards for the preparation, sale, and accountability of tickets;
- Conduct of drawings; and
- Awarding of prizes.

Licensed organizations will not be able to use electronic devices to conduct raffles or sell raffle tickets, and an organization will not be allowed to contract with a professional raffle or lottery vendor to manage, operate, or conduct a raffle.

Powers of the Administrator

To determine the receipts of licensees, the Administrator will be allowed to examine books, papers, records, or memoranda required to be included in the licensee's records. The Administrator will be allowed to require the attendance of the licensee in the county where the licensee resides, or where charitable raffles are conducted, and can require the attendance of any person having knowledge relating to such records, and can take testimony and require proof of such person(s). The Administrator also will be allowed to issue subpoenas to compel access to records to which a licensee has access or to compel the appearance of persons and could issue interrogatories, administer oaths, and take depositions to the same extent that he or she could in a civil action in district court.

The Administrator will be authorized to enjoin and have an order restraining persons without valid licenses from managing, operating, or conducting charitable raffles.

Actions by the Administrator will be subject to review under the Kansas Judicial Review Act.

Punitive Actions by Administrator

The Administrator will be allowed to revoke or suspend a raffle license, after a hearing in accordance with the provisions of the Kansas Administrative Procedures Act, for the following reasons:

- Licensee obtained the license by giving false information;
- Licensee violated any Kansas laws or provisions of the Act related to raffles; or
- Licensee has become ineligible to obtain a license under the Act.

If a license is revoked, no new license may be issued to the organization or a person acting on its behalf for six months after the revocation. A license cannot be revoked or suspended for more than one year if the applicant is otherwise qualified on the date the applicant makes a new application for a license.

In addition to or in lieu of any civil or criminal penalty provided by law, the Administrator may impose a civil fine of not more than \$500 for each violation of the raffle provisions. No fine can be imposed without a written order from the Administrator stating the violation, the fine imposed, and the right of the licensee to appeal. Money collected from fines will be credited to the State Charitable Raffle Regulation Fund.

Upon the recommendation of the Administrator, the Secretary will be required to adopt rules and regulations to implement the license requirements for nonprofit organizations conducting raffles.

Applicable Taxes

The bill specifies that in any raffle for which the prize is a motor vehicle, the vehicle will be subject to retailer's sales tax. All sales of charitable raffle tickets made in accordance with the Act will be exempt from sales tax.

Raffle Funds

The bill creates the State Charitable Raffle Regulation Fund and requires that all moneys the Administrator receives from license fees be remitted to this fund. All operating expenses related to the administration and enforcement of charitable raffles will be paid from the Regulation Fund. At the end of each fiscal year, money that has not been used for raffle administration or enforcement will be transferred to the State General Fund.

The bill also creates the Charitable Raffle Refund Fund, which will be maintained by the Administrator from the license and registration fees and taxes collected under the Act. The Refund Fund will have a limit of \$10,000.

Other Changes

The bill amends the definition of "bet" in criminal statutes to specify that charitable raffles managed, operated, and conducted in accordance with the raffle provisions cannot be considered illegal bets.

The bill contains a severability clause, stating if any provision of the Act or any application of the Act is found to be unconstitutional or invalid, the finding will not affect the other provisions of the Act.

Kansas Lottery Act

Concerning the Kansas Lottery Act, the bill:

- Allows the Kansas Lottery to advertise at amateur athletic and sporting events where the majority of participants are not under the age of 18;
- Allows the Kansas Lottery to be a retailer and sell Lottery products; and
- Makes it unlawful for anyone under the age of 18 to redeem a winning lottery ticket.

Fantasy Sports Leagues

The bill makes participation in fantasy sports leagues legal by including such sports leagues in the list of exceptions to the definition of what constitutes an illegal bet. The bill defines “fantasy sports league” to mean any fantasy or simulation sports game or contest in which no fantasy or simulation sports team is based on the current membership of an actual team that is a member of an amateur or professional sports organization and that meets the following conditions:

- All prizes and awards offered to winning participants are established and made known to participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants;
- All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individual athletes in multiple real-world sporting events; and
- No winning outcome is based:
 - On the score, point spread, or any performance or performances of any single real-world team or any combination of such teams; or
 - Solely on any single performance of an individual athlete in any single real-world sporting event.

Alcoholic Liquor—Infusion of Alcohol; Citations for Violations of Liquor Control Act; Eligibility for Liquor Licenses; Alcohol Sampling; Alcohol Consumption; Location of Certain Licensees; Temporary Permits; Farmers’ Market Permits; Vineyard Permits; Alcohol on Capitol Premises; Alcohol on Unlicensed Premises; Powdered Alcohol; HB 2223

HB 2223 makes changes to several different areas of law concerning alcoholic liquor: infusing alcohol with flavors or other ingredients; citations issued for violations of the Liquor Control Act and the Club and Drinking Establishment Act; powdered alcohol; automated wine devices; eligibility to obtain a liquor license; consumption of alcohol at the State Capitol and on unlicensed premises; allowing distributors to provide samples; vineyard permits; notification requirements for catered events; the consumption of alcoholic liquor on public property at events catered by a licensed caterer; the location of liquor retailers, microbreweries, microdistilleries, and farm wineries; temporary permits for the Kansas State Fair; and farmers’ market sales permits.

Infusing Alcohol with Flavors or Other Ingredients

The bill allows drinking establishments to sell and serve alcoholic liquor infused with spices, herbs, fruits, vegetables, candy, or other substances intended for human consumption if no additional fermentation occurs during the process.

Generally, alcoholic liquor is to be dispensed only from original containers but, under the bill, a drinking establishment or its agent or employee is able to dispense alcoholic liquor from a machine or container used to mix, chill, or infuse alcoholic liquor with additional liquids or solids. A drinking establishment or its agent or employee is not able to refill any original container with any alcoholic liquor or any other substance. The bill specifies that the dispensing of alcohol from a machine pursuant to the provisions of the bill does not include self-dispensing by a customer.

The bill also defines the terms “infuse” and “dispense.” “Infuse” means to add flavor or scent to a liquid by steeping additional ingredients in the liquid. “Dispense” means to portion out servings of alcoholic liquor for consumption, including the pouring of drinks of alcoholic liquor and opening original containers of alcoholic liquor by the licensee or licensee’s employee for consumption by consumers, and shall not include any self-dispensing by a customer.

Citations Issued for Violations of the Liquor Control Act and the Club and Drinking Establishment Act

The bill specifies when issuing a citation for a violation of the liquor laws, agents of the Department of Revenue, Division of Alcoholic Beverage Control (ABC) must deliver the citation issued to a person in charge of the licensed premises at the time of the alleged violation. Previously, the law required delivery of the citation to the person allegedly committing the violation. The bill defines “person in charge” as any individual or employee present on the licensed premises at the time of the alleged violation who is responsible for the operation of the licensed premises. If no designated individual or employee is a person in charge, then any employee present is considered the person in charge.

The bill also adds law concerning the delivery of citations by local law enforcement officers other than agents of ABC. The new provisions allow any local law enforcement officer observing a violation of the liquor laws to submit a report of the violation to ABC for review after serving notice of the violation to a person in charge of the licensed premises. Notice is required to:

- Be made at the time of the alleged violation;
- Be made in writing;
- Contain the name of the licensee;
- Contain the date and time of the alleged violation;
- Contain a description of the alleged violation; and

- Contain a statement indicating a report of the violation will be submitted to ABC for review.

The bill also adds language stating any citation not issued in accordance with the provisions laid out in the new and amended law is void.

Powdered Alcohol

The bill bans the sale and service of powdered alcohol. The Club and Drinking Establishment Act is amended to prohibit clubs, drinking establishments, caterers, holders of temporary permits, and public venues from selling, offering to sell, or serving free of charge any form of powdered alcohol.

The bill also defines “powdered alcohol” as alcohol prepared in a powdered or crystal form for either direct use or for reconstruction in a nonalcoholic liquid.

Automated Wine Devices

The bill allows public venues, clubs, and drinking establishments to offer customer self-service of wine from automated devices on licensed premises. Licensees are required to monitor and have the ability to control the dispensing of wine from the automated devices. The Secretary of Revenue is granted rule and regulation authority to implement this provision.

Eligibility to Obtain a Liquor License

The bill adds to the list of persons who cannot receive liquor licenses any person who, after a hearing before the Director of ABC (Director), is found to have held an undisclosed beneficial interest in a liquor license obtained through fraud or false statement on the application for the license.

Additionally, the bill establishes requirements for limited liability companies (LLCs) applying for liquor licenses. Specifically, in addition to being required to submit copies of their articles of organization and operating agreements to the Director, LLCs applying for retailer's licenses are required to:

- Meet the licensure qualifications for co-partnerships applying for retailer's licenses;
- Under the Club and Drinking Establishment Act, meet the licensure qualifications for corporations under the Act; and
- Under the Cereal Malt Beverage Act, meet the licensure qualifications for corporations applying for licenses under that act. Individuals owning, in the aggregate, 25.0 percent or more of the ownership interest in the LLC will be required to meet the qualifications for an individual applying for a license under that act.

The bill also specifies the Director may suspend, involuntarily cancel, or revoke any license issued pursuant to the Liquor Control Act if, after notice and opportunity for a hearing, the Director determines the licensee did any of the following:

- Fraudulently obtained the license by providing false information on the license application or at a hearing related to the license;
- Violated any provision of the Liquor Control Act or related rules and regulations; or
- Became ineligible to obtain a license.

The bill adds language specifying proceedings involving the denial, suspension, involuntary cancellation, or revocation of any license, or any assessment of civil fines, are to be governed by the provisions of the Kansas Administrative Procedure Act. The bill specifies the Secretary of Revenue is able to designate the Director to be the presiding officer in any such hearing.

The bill also removes the Hiram Price Dillon House from the list of exceptions to the general prohibition against consumption of alcohol on public property. (The Dillon House is no longer public property.)

Consumption of Alcohol at the State Capitol and on Unlicensed Premises

The bill allows the consumption of alcoholic liquor on the premises of the State Capitol Building for official state functions that are nonpartisan in nature. Any such function requires the approval of the Legislative Coordinating Council before the consumption of alcoholic liquor can commence.

The bill also provides that patrons and guests of unlicensed businesses will be authorized to consume alcoholic liquor and cereal malt beverages on the premises of an unlicensed business property only if:

- The business, or any owner of the business, has not had a license that is issued under the Kansas Liquor Control Act or the Club and Drinking Establishment Act revoked for any reason;
- No charge of any sort is made by the business for the privilege of possession or consuming alcohol on the premises, or for mere entry onto the premises;
- Any alcoholic liquor:
 - Remains in the personal possession of the patron, and
 - Is not sold, offered for sale, or given away by the owner or employees of such business; and
- No possession or consumption of alcoholic liquor takes place between 12 a.m. and 9 a.m.

The bill defines “patron” to mean a natural person who is a customer or guest of an unlicensed business.

Allowing Distributors to Provide Samples

The bill allows alcoholic beverage distributor licensees to provide samples of spirits, wine, and beer or cereal malt beverages to alcoholic beverage retailer licensees and their employees or other distributor licensees and their employees in the course of business or at industry seminars. The bill specifies that no licensee is allowed to sell alcoholic liquor for consumption on the premises and liquor provided as samples under the provisions of the bill is subject to the liquor enforcement tax.

The service of samples is authorized on the distributor licensee’s premises or on the retailer licensee’s premises, with the exception of those areas open to the public where alcoholic liquor sales occur. Samples are required to come out of the distributor licensee’s inventory and the distributor is required to pay retail sales enforcement taxes on such samples. No sample can be served to a minor, and the sizes of the samples are as defined in the Club and Drinking Establishment Act.

Vineyard Permits

The bill allows any person engaged in business as a Kansas vineyard with more than 100 vines to apply for an annual vineyard permit.

The permit authorizes the following on the premises specified in the permit:

- The sale of wine in the original, unopened container;
- The serving of wine by the drink; and
- Conducting wine tastings in accordance with continuing law.

Wine sold or served by a permit holder must be produced, in whole or in part, using grapes grown by the permit holder, and must be manufactured by a farm winery.

Any wine not consumed on the premises must be disposed of by the permit holder or securely resealed in a tamper-proof, transparent bag, sealed in a manner that makes it visibly apparent if the bag subsequently is opened before being removed from the property.

A vineyard permit costs \$100 and is valid for one year. The Secretary of Revenue is authorized to adopt rules and regulations necessary to implement the new permit.

Catered Events

The bill allows the consumption of alcoholic liquor at catered events held on public property. Prior to passage of the bill, the law generally prohibited the consumption of alcoholic liquor on public property, but made an exception for special events (events approved by local

government of a city, county, or township) when a temporary permit was issued by the Director. The bill expands the language of this exception to also allow the consumption of alcoholic liquor at catered events on public property where the caterer has provided the required notice.

The bill also changes the notice required to be given by caterers to ABC. Prior to the passage of the bill, the law required a caterer to provide notice to ABC ten days before any event and provide notice to the Chief of Police or Sheriff where the event was to occur. The bill changes this law to require only that the caterer provide electronic notification to ABC at least 48 hours before any event. The electronic notice provided to ABC must include the time, location, and names of the contracting parties of the event. Caterers are required to keep their records (agreements, receipts, lists of employees assigned to the events, and records of alcohol purchased) for three years. The bill also specifies that no notice to ABC is required for weddings, funerals, events sponsored by religious institutions, or business-, industry-, or trade-sponsored meetings including, but not limited to, awards presentations and retirement celebrations.

Locations of Liquor Retailers, Microbreweries, Microdistilleries, and Farm Wineries

The bill allows cities to pass ordinances allowing liquor retailers, microbreweries, microdistilleries, and farm wineries to locate within 200 feet of any public or parochial school or college or church in a core commercial district. Prior to the passage of the bill, the law allowed those facilities to be located within 200 feet of schools, colleges, or churches only if the retailer, microbrewery, microdistillery, or farm winery was already in a location and a school or church chose to establish itself within 200 feet of that facility.

Temporary Permits: State Fair

The bill allows the Director, on or after July 1, 2016, to issue a sufficient number of temporary permits for the sale of wine in unopened containers and the sale of beer, wine, or both by the glass on the State Fairgrounds as specified in the temporary permit issued. Prior to the passage of the bill, the law had been interpreted to allow the issuance of only one temporary permit for the Kansas State Fair. The bill specifies that nothing will be construed to limit the number of temporary permits issued by ABC for the State Fairgrounds, but the issuance of the permits must be consistent with the requirements of the State Fair Board.

Farmers' Market Sales Permits

The bill allows a farm winery to sell wine at a farmers' market by applying for a sales permit and submitting a \$25 application fee. The application for the permit is required to specify the locations of the farmers' markets at which wine will be sold. The location of any farmers' market not specified in the application will have to be provided to the Director before the licensee can sell wine there.

The bill defines "farmers' market" as any common facility or area where producers or growers gather on a regular, recurring basis to sell fruits, vegetables, meats, and other farm products directly to consumers.

**Uniform Controlled Substances Act—Adding and Rescheduling Certain Drugs or Drug
Classes to Schedules of Controlled Substances; HB 2275**

HB 2275 amends the statutes regulating controlled substances to add several additional drugs or drug classes to the schedules. Specifically, the bill adds a hallucinogenic drug and a cannabinoid to schedule I, reschedules two hydrocodone drugs from schedule III to schedule II, adds perampanel to schedule III, and adds three drugs to schedule IV. The bill also corrects or standardizes spellings or descriptions of several substances.

BONDS

Authorization for the Issuance of \$1.0 Billion in Bonds; KPERS Employer Contribution Rates; SB 228

SB 228 allows the Kansas Development Finance Authority (KDFA) to issue bonds, in one or more series, in an amount not to exceed \$1.0 billion, plus all amounts required to pay the costs of issuance. No bonds may be issued without the approval of the State Finance Council, which could give that approval while the Legislature is in session. The proceeds from the bonds must be applied to the unfunded actuarial pension liability, as directed by the Kansas Public Employees Retirement System (KPERS). Debt service is payable from appropriations. The interest rate of the bonds, all inclusive cost, must not exceed 5.0 percent. The bonds issued and interest owed are an obligation of KDFA and not KPERS. The bonds issued are not considered a debt or obligation of the State for purposes of the *Kansas Constitution*. The Department of Administration and KDFA may enter into contracts to implement the payment arrangements after the bonds are issued.

The employer contribution rate for the State-School Group will decrease from 12.37 percent to 10.91 percent in FY 2016 and from 13.57 percent to 10.81 percent in FY 2017, provided debt service payments are not financed using capitalized interest or have capitalized interest-only service payments. "Capitalized interest" means payments on the bonds that are pre-funded or financed from bond proceeds as part of the issue for a specified period of time in order to offset one or more initial debt service payments.

BUSINESS, COMMERCE, AND LABOR

Cap on Maximum Weekly Unemployment Insurance (UI) Benefit; Assessment of Employer Contributions; Administration of UI System; SB 154

SB 154 revises provisions of the Employment Security Law, commonly referred to as Unemployment Insurance (UI), pertaining to the calculation of maximum weekly benefits, the assessment of employer contributions, and the administration of the UI System.

Maximum Weekly Benefit Cap

If a claimant is eligible for UI benefits, that individual has been eligible to receive weekly benefits equal to 4.25 percent of the individual's total wages paid during that calendar quarter from the individual's base period in which total wages were the highest. However, the amount of weekly benefits paid was capped at 60 percent of the average weekly wages paid to employees in insured work during the previous calendar year, as calculated annually by the Secretary of Labor (Secretary). The minimum weekly benefits remains equal to 25.0 percent of the maximum weekly benefit. The maximum weekly benefit cap, starting on July 1, 2015, is the greater of either \$474, which is the former maximum weekly benefit, or 55.0 percent of the average weekly wages paid to employees in insured work during the previous calendar year.

Assessment of Employer Conditions

For new employers who have an insufficient employment history to qualify for an experience rating and who are not engaged in the construction industry, the contribution rate decreases from 4.0 percent to 2.7 percent. The number of years that an entering and expanding employer is eligible for a contribution rate of 2.7 percent is decreased from 4 years to 3 years.

Starting in rate year 2016, employers with positive experience ratings, meaning employers who have contributed more to the UI Trust Fund than what that employer's unemployed workers have received in benefits, will be distributed among 27 rate groups. The standard rates for the positive groups range from 0.20 percent for rate group 1 and increase by units of two-tenths of a percent in each subsequent rate group until 5.4 percent is established for rate group 27. Under previous law, positive rated employers were arrayed across 51 rate groups. Employers with negative experience ratings, meaning employers who have contributed less to the UI Trust Fund than what that employer's unemployed workers have received in benefits, are distributed among 11 rate groups. The standard rates for the negative groups range from 5.6 percent for rate group N1 and increase by units of two-tenths of a percent in each subsequent rate group until 7.6 percent is established for rate group N11. Previously, negative rated employers were arrayed across 10 rate groups.

Also starting in rate year 2016, the planned yield calculation, which is the estimated amount of employer contributions necessary to finance the UI System for the year, is no longer utilized. Instead, a solvency adjustment is added to the standard employer contribution rates for both positive and negative classified employers. The solvency adjustment, which is based upon the UI Trust Fund's reserve ratio (the Trust Fund balance as of July 31, divided by total payroll for contributing employers) and the average high benefit cost rate (an average of the 3 highest ratios of benefits paid to total wages in the most recent 20 years), may range from a maximum of 1.60 percent to -0.50 percent.

Administration of the UI System

The Secretary must examine whether an individual has separated from employment for each week that UI benefits are claimed. Individuals who have been working on a part-time basis as substitute teachers while searching for work are not disqualified from receiving UI benefits.

The bill rephrases the language used to specify that when a decision of the Employment Security Board of Review becomes final, a decision may not be appealed for judicial review after 16 days have passed since the decision was mailed to the involved parties.

The bill repeals:

- The requirement of the Secretary to hold examinations to determine applicants' qualifications for UI jobs;
- The prohibition placed on employing individuals in the UI Division who are active in partisan politics; and
- The requirement that individuals administering the UI System remain nonpartisan.

Failure to remain nonpartisan, under previous law, required an employee to be discharged.

Business Filings; SB 276

SB 276 modifies statutes related to business filings with the Kansas Secretary of State (Secretary). The bill allows the articles of organization of a limited liability company to be amended upon filing a certificate of amendment or a judicial decree of amendment with the Secretary. For professional associations and professional corporations, the company is required to file a certificate indicating that each member is duly licensed to practice the profession and that the proposed company name has been approved.

The bill also removes a requirement that a merger be effective upon filing a certificate of merger unless a future effective date is provided. The bill allows a person acting as an agent to file documents with the Secretary without providing evidence of the person's authority to file such documents.

Finally, the bill provides that a new or existing entity may not adopt a former entity's name until after the former entity has been forfeited or canceled for at least one year.

Technical Professions; Clarification; Sub. for HB 2224

Sub. for HB 2224 clarifies law regarding technical professions by adding the word "architectural" to describe the types of designs included in the definition of professional architectural services. In addition, the bill adds "preparing and providing drawings, specifications and other technical submissions" as a common technical service offered by a technical professions licensee.

CONCEALED CARRY

Constitutional Carry; SB 45

SB 45 amends laws concerning the concealed carry of firearms. The bill adds language allowing the concealed carry of a firearm without a concealed carry license issued by the State, as long as that individual is not prohibited from possessing a firearm under either federal or state law. The bill specifies the carrying of a concealed handgun cannot be prohibited in any building unless the building is posted in accordance with rules and regulations adopted by the Attorney General. Concealed carry licenses will still be issued by the State, but the availability of those licenses cannot be construed to prohibit the carrying of handguns without a license, whether carried openly or concealed, loaded or unloaded.

Related to concealed carry licenses, the bill also allows the Attorney General to create a list of concealed carry handgun licenses or permits from other jurisdictions that have training requirements greater than or equal to the Kansas requirements. This list can be used by the Attorney General when reviewing concealed carry license applications and making a determination about whether an individual has completed an approved handgun safety and training course required for issuance of a concealed carry license. The bill also defines “equal to or greater than,” “jurisdiction,” and “license or permit” for the purposes of the new section of law.

The bill amends the definition of “criminal carrying of a weapon” to clarify that it is not legal for anyone under 21 years of age to carry any pistol, revolver, or other firearm concealed on one’s person, except when on such person’s land or in such person’s abode or fixed place of business.

Firearms Regulation—Concealed Carry; Firearms and Ammunition; Local Control; HB 2331

HB 2331 makes changes to laws concerning eligibility for concealed carry licenses and to statutes concerning local regulation of firearms and ammunition.

Eligibility for Concealed Carry Licenses

The bill amends a statute governing who is eligible for a concealed carry license by removing a provision, passed by the 2014 Legislature, that permanently prohibited any person convicted of certain crimes from qualifying for a concealed carry license. The bill prohibits a person from obtaining a concealed carry license for a length of time after a conviction, as specified by federal or state law, but does not necessarily place a permanent prohibition on the individual obtaining a concealed carry license.

Local Regulation of Firearms and Ammunition

The bill adds language to law limiting local regulation of firearms and ammunition. The bill adds ordinances, resolutions, regulations, and administrative actions governing the requirement of fees, licenses, or permits for commerce in or the sale of firearms or ammunition to the list of actions prohibited by local government entities. (The law already prohibits local government entities from enacting ordinances, resolutions, regulations, or administrative actions governing the purchase, transfer, ownership, storage, carrying, or transportation of firearms and

ammunition.) The bill specifies that nothing prevents cities or counties from levying and collecting any retailers' sales tax on the sale of firearms, ammunition, or both, as authorized by continuing statute.

The bill also deletes language limiting local regulation of federal firearms dealers to reflect the language in the bill, which more broadly addresses issues related to regulation of federal firearms dealers.

CORRECTIONS AND JUVENILE JUSTICE

Good Time Credit; Program Credits; Community Corrections Placements; HB 2051

HB 2051 increases the amount of good time credit an inmate sentenced for a drug severity level 3 crime committed on or after July 1, 2012, may earn, from 15 percent to 20 percent. The bill allows the same inmates to earn program credits and increases the amount of time that may be earned by any eligible inmate for program credits from 60 days to 90 days.

The bill provides immunity for the State, the Secretary of Corrections, and the Secretary's agents and employees for damages caused by negligent or wrongful acts or omissions in making good time or program credit calculations. The bill directs the Secretary to make the good time and program credit calculations authorized by the bill no later than January 1, 2016, and the provisions of the bill are to be construed and applied retroactively.

The bill also amends the list of adult offenders who are eligible to be placed in community correctional services programs to remove placements based on offense classification and expand placements based on the use of a standardized risk assessment tool specified by the Kansas Sentencing Commission. Those offenders who are determined, on or after July 1, 2014, to be moderate- or very-high-risk by this tool will be eligible for placement. (Note: Offenders who are determined to be high-risk by this tool are eligible under previous law.)

COURTS

Courts—District Magistrate Judge Jurisdiction, County Law Libraries, Items Allowable as Costs, Judgment Dormancy, and Debts Owed to Courts; HB 2111

HB 2111 amends the law governing courts, including district magistrate judge jurisdiction, county law libraries, items allowable as costs, judgment dormancy, and debts owed to courts.

District Magistrate Judge Jurisdiction

The bill clarifies the jurisdiction of district magistrate judges, by:

- Adding jurisdiction over wildlife, parks, and tourism violations;
- Reorganizing provisions within the statute related to jurisdiction in uncontested actions for divorce and jurisdiction in other civil cases and rewording to clarify these provisions;
- Rewording language related to reassignment of a petition or motion requesting termination of parental rights to match language in the Revised Kansas Code for Care of Children; and
- Adding a list of specific actions over which district magistrate judges will not have jurisdiction without consent of the parties, including:
 - Actions in which the amount in controversy exceeds \$10,000, with some exceptions;
 - Actions for official misconduct;
 - Actions for specific performance for real estate;
 - Certain actions involving real estate;
 - Actions to foreclose real estate mortgages or to establish and foreclose liens on real estate;
 - Contested actions for divorce, separate maintenance, or custody of minor children; and
 - *Habeas corpus*, receiverships, declaratory judgments, *mandamus* and *quo warranto*, injunctions, class actions, and actions for commitment of sexually violent predators.

County Law Libraries

The bill also allows the Board of Trustees of a county law library to authorize the chief judge of the judicial district to use fees collected pursuant to the statute governing the establishment of county law libraries for the purpose of facilitating and enhancing functions of the district court of the county. Johnson and Sedgwick counties are not included in these provisions, however. Further, judges are prohibited from participating in any such decision to authorize the use of fees.

Items Allowable as Costs

The bill amends the statute governing which items may be included in the taxation of court costs to include convenience fees and other administrative fees levied for the privilege of paying assessments, fees, costs, fines, or forfeitures by credit card or other means, including, but not limited to, fees for electronic filing of documents or pleadings with the court.

Dormancy of Judgments for Court Costs

The bill amends the law relating to dormant judgments to specify any judgments for court costs, fees, fines, or restitution not void as of July 1, 2015, are not and will not become dormant for any purpose. If the judgment would have become dormant under certain conditions, it ceases to operate as a lien on the real estate of the judgment debtor as of the date the judgment would have become dormant, but is not released.

Debts Owed to Courts

The bill amends the statute governing the collection of restitution or debts owed to courts to add court costs, fines, fees, or other charges arising from failure to comply with a traffic citation within 30 days from the mailing of the notice to the definition of “debts owed to courts.” It also adds a provision requiring, when a contracting agent uses the state debt setoff procedures to recover a debt owed to the courts, that the agent’s cost of collection for debt recovered through that program be the contracted amount minus the collection assistance fee imposed by the Director of Accounts and Reports of the Department of Administration (Director). In this section, the bill replaces references to the Attorney General with references to the Judicial Administrator and replaces authorization for the Attorney General to adopt rules and regulations with authorization for the Supreme Court to adopt rules.

State Debt Setoff Program

The bill amends statutes governing the state debt setoff program. The bill adds the following to the definition of “debt”: assessment of court costs, fines, fees, moneys expended by the state in providing counsel and other defense services to indigent defendants, or other unpaid charges ordered by a district court judgment be paid to the court, including any interest or penalties and the cost of collection when the collection services of a contracting agent are used. The definition of “refund” is amended to remove the term “Kansas.” The definition of “state agency” is amended to include a contracting agent contracted by a district court to collect debts owed to the court, who could directly establish a debt setoff account with the Director for the sole purpose of collecting such debts.

The bill amends a provision related to the Director’s assessment of a reasonable collection assistance fee to require the Director to add the collection assistance fee to the debt after the debt is submitted to the Director. Other debt setoff provisions are amended to require the Director to add the cost of collection and the debt for a total amount subject to setoff against a debtor and to allow the reasonable collection assistance fee to be recovered as part of the setoff. Debts being enforced by the Department for Children and Families (DCF) under Title IV-D of the federal Social Security Act do not have the cost of collection added to the debt owed and subject to setoff, and the cost will instead be paid by DCF.

CRIMES AND CRIMINAL MATTERS

Battery Against a Law Enforcement Officer; Criminal History; Aggravated Battery When Driving Under the Influence; Search Warrants; HB 2055

HB 2055 amends law related to battery against a law enforcement officer, determination of criminal history, aggravated battery when driving under the influence (DUI), and the items that may be included in a search warrant. The bill also makes technical corrections to statutory references.

Battery Against a Law Enforcement Officer

The bill amends the crime of battery against a law enforcement officer to include battery against a judge engaged in the performance of the judge's duty, an attorney engaged in the performance of the attorney's duty, or a court services or community corrections officer in the performance of such officer's duty. The bill similarly amends the crime of aggravated battery against a law enforcement officer.

The bill defines "judge" to include appellate justices and judges, district court judges, district magistrate judges, and municipal judges. "Attorney" is defined to include county, assistant county, and special assistant county attorneys; district, assistant district, and special assistant district attorneys; the attorney general, assistant attorneys general, and special assistant attorneys general; and public defenders, assistant public defenders, State Board of Indigents' Defense Services contract counsel, or attorneys appointed to represent indigent persons. "Court services officer" is defined to include an employee of the Judicial Branch or local judicial district who supervises, monitors, writes reports, or performs related duties as assigned by the court. "Community corrections officer" is defined to include an employee of a community correctional services program who supervises adults or juveniles as assigned by the court or provides enhanced supervision of offenders.

The bill amends references to "juvenile correctional facility officer or employee" to reflect the reorganization of juvenile justice services within the Kansas Department of Corrections. The bill strikes a reference to the Rainbow Mental Health Facility and clarifies that the definition of "mental health employee" includes Kansas Department for Aging and Disability Services contractors.

Criminal History Determination; Aggravated Battery While DUI

The bill amends one of the statutes governing the determination of an offender's criminal history to establish a procedure for classifying out-of-state misdemeanor convictions. The comparable Kansas offense shall be used to classify the out-of-state conviction as a class A, B, or C misdemeanor. If the comparable Kansas offense is a felony, the conviction shall be classified as a class A misdemeanor. If there is no comparable Kansas offense, the conviction will not be included in the criminal history.

The bill also amends this statute with provisions known as Mija Stockman's Law, which creates a special rule for determining criminal history for a conviction of aggravated battery when a person is DUI and great bodily harm to another person or disfigurement of another person results from such act. The rule provides that, for the purposes of determining an offender's criminal history, the first prior adult conviction, diversion in lieu of criminal

prosecution, or juvenile adjudication of DUI, commercial DUI, or DUI test refusal shall count as one nonperson felony. Each second or subsequent prior adult conviction, diversion in lieu of criminal prosecution, or juvenile adjudication of these offenses shall count as one person felony.

The bill adds commercial DUI and DUI test refusal to prior convictions, diversions, or juvenile adjudications that count as person felonies in determining the criminal history for a conviction of involuntary manslaughter while DUI.

Search Warrants

The bill amends the statute governing search warrants to add a provision allowing the search or seizure of any thing that can be seized under the Fourth Amendment to the *U.S. Constitution*. The bill also adds a specific provision allowing the search or seizure of biological material, DNA, cellular material, blood, hair, or fingerprints.

Driving Under the Influence—Expungement, Restricted Licenses; Sub. for HB 2159

Sub. for HB 2159 amends the law concerning driving under the influence (DUI). The bill amends the statute governing ignition interlock restrictions of driving privileges following a first occurrence of a DUI-related test refusal, test failure, or conviction, to allow the person under the restriction to drive to and from the ignition interlock provider for maintenance and downloading of data from the device.

The bill also amends provisions related to expungement of DUI and test refusal offenses. Specifically, the bill amends the statutes governing expungement of DUI and test refusal convictions and city ordinance violations that also would constitute a DUI or test refusal to change to five the number of years that must have elapsed since the person satisfied the sentence or the terms of a diversion agreement or was discharged from probation, parole, postrelease supervision, conditional release, or a suspended sentence before petitioning for expungement of a first DUI offense. A person can petition for expungement of a second or subsequent conviction of DUI or test refusal after ten years. Previously, the law required the elapse of ten years for a municipal DUI violation and seven years for a DUI conviction under state law. For test refusal, the law previously required the elapse of three years for a municipal violation and seven years for a conviction under state law.

Finally, the bill allows the Division of Vehicles to issue a restricted driver's license with a DUI-IID (Ignition Interlock Device) designation to a licensee allowed to operate a motor vehicle under ignition interlock restrictions. The bill applies an additional \$10 fee to the DUI-IID restricted license; moneys collected from this fee will be deposited into a DUI-IID Designation Fund created by the bill. All other requirements for issuance and renewal of a driver's license apply.

EDUCATION

K-12 Education Provisions; House Sub. for SB 7

House Sub. for SB 7 makes appropriations for K-12 education for fiscal years (FYs) 2015, 2016, and 2017. The bill also repeals the existing school finance formula—the School District Finance and Quality Performance Act—and creates the Classroom Learning Assuring Student Success (CLASS) Act, the new school finance formula. The bill also authorizes the Board of Education to promulgate rules and regulations to administer the CLASS Act.

Appropriations

Highlights of the appropriations portion of the bill follow.

For FY 2015 (school year 2014-15), the bill adds \$27,346,783 in General State Aid, \$1,803,566 in Supplemental General State Aid (Local Option Budget [LOB] State Aid), and an amount not to exceed \$2,202,500 for the Capital Outlay State Aid demand transfer, all from the State General Fund (SGF). In addition, the bill transfers \$4.0 million from the SGF to a newly created special revenue fund called the School District Extraordinary Need Fund.

For FY 2016 (school year 2015-16), the bill appropriates \$2,751,326,659 from the SGF as a block grant to school districts. (Components of the block grant are described below.) A demand transfer from the SGF to the School District Extraordinary Need Fund will be made in an amount not to exceed \$12,292,000. An SGF appropriation of \$500,000 will be made to the Information Technology Education Opportunities Account (extension of a program to pay for credentialing high school students in information technology fields, funded previously in the Board of Regents' budget).

For FY 2017 (school year 2016-17), the bill appropriates \$2,757,446,624 from the SGF as a block grant to school districts. A demand transfer from the SGF to the School District Extraordinary Need Fund will be made in an amount not to exceed \$17,521,425. An SGF appropriation of \$500,000 will be made to the Information Technology Education Opportunities Account.

The operating budget for the Department of Education also is included in the bill.

Components of the Block Grant for FYs 2016 and 2017

The block grant includes:

- General State Aid school districts are entitled to receive for school year 2014-15, as adjusted by virtual school aid calculations (described below) and a 0.4 percent reduction for an Extraordinary Need Fund;
- Supplemental general state aid and capital outlay state aid as adjusted in 2014-15 (adjustment described below);
- Virtual state aid as recalculated for FYs 2016 and 2017 (described below);

- Amounts attributable to the tax proceeds collected by school districts for the ancillary school facilities tax levy, the cost of living tax levy, and the declining enrollment tax levy; and
- KPERS employer obligations, as certified by KPERS.

General state aid for school year 2014-15 is adjusted to account for consolidated school districts. Adjustments also are made in all school years to ensure districts eligible for the new facilities weighting will receive that weighting as outlined in former law.

General state aid will be disbursed to districts in the same manner as in former law.

Special education funding is not included in the block grant, but is a separate appropriation in the bill.

Extraordinary Need Fund

For FYs 2016 and 2017, 0.4 percent of general state aid will be transferred to the Extraordinary Need Fund. Any unencumbered funds remaining in this Fund at the end of the fiscal year will be transferred back to the SGF. Districts can apply to the State Finance Council for payments from this Fund. In reviewing a district's application for payment from the Fund, the Finance Council will consider:

- Any extraordinary increase in enrollment;
- Any extraordinary decrease in the district's assessed valuation; and
- Any other unforeseen acts or circumstances substantially impacting a district's general fund.

Recalculation of Supplemental General State Aid (LOB State Aid)

LOB State Aid is recalculated based on quintiles below the 81.2 percentile of school districts' assessed valuation per pupil (AVPP) in school year 2014-15 and capped at that amount for subsequent school years with gradations as follows based on AVPP, beginning with the districts with the lowest AVPP. (Each quintile equals about 46 school districts.)

- Lowest quintile – 97 percent of LOB State Aid;
- Second lowest quintile – 95 percent of LOB State Aid;
- Middle quintile – 92 percent of LOB State Aid;
- Second highest quintile – 82 percent of LOB State Aid; and
- Highest quintile – 72 percent of LOB State Aid.

Districts continue to be authorized to adopt a LOB and levy a property tax in an amount not to exceed the LOB of the district in school year 2014-15, unless the district approves a higher amount for school year 2015-16, prior to July 1, 2015.

Recalculation of Capital Outlay State Aid

The state aid percentage begins at 75 percent for the district with the lowest AVPP and decreases by 1 percent for each \$1,000 incremental increase in AVPP.

Bond and Interest State Aid

The bill amends the calculation of state aid for general obligation bonds approved for issuance at an election held on or after July 1, 2015, using the same formula as the amended Capital Outlay State Aid formula.

Virtual State Aid

In school year 2014-15, there is no change in the calculation of Virtual State Aid.

In school year 2015-16, funding for full-time equivalent students will be calculated at \$5,000 per student; part-time students, \$4,045 per student; and students 19 and older, \$933 per 1-hour credit course successfully completed in the school year.

In school year 2016-17, funding for full-time equivalent students will be calculated at \$5,600 per student; part-time students, \$1,700 per student; and students 19 and older, \$933 per 1-hour credit course successfully completed in the school year.

Special Levies

Districts are authorized to impose special local tax levies (for ancillary facilities, cost of living, and declining enrollment), if the district levied such tax in school year 2014-15 or if the district is qualified to levy such tax.

Fund Flexibility

Districts have fund flexibility at the district level; that is, funds can be transferred to the general fund of the district with no cap on the amount of the transfer. Excluded from this flexibility are three funds: bond and interest, special education, and the special retirement contributions fund.

Other Provisions

The bill uses the assessed valuation per pupil for school year 2015-16 (instead of the 2014-15 school year) for the purpose of determining Supplemental General State Aid (LOB State Aid) for any district if the district has a total assessed valuation for school year 2015-16 less than the assessed valuation in the 2014-15 school year; the difference in assessed valuation between the 2014-15 school year and 2015-16 is greater than 25 percent; and having

such reduction be the direct result of the classification of tangible personal property by 2014 legislation changing the tax classification of commercial and industrial machinery used directly in the manufacture of cement, lime, or similar products. (KSA 2014 Supp. 79-507)

Effective Dates

The bill took effect upon publication in the *Kansas Register* with the exceptions noted above. Establishment of the Extraordinary Need Fund, amendments to the LOB equalization formula, capital outlay state aid, approval for LOB authority, and fund flexibility provisions are effective for school year 2014-15.

The provisions of the bill will expire on June 30, 2017.

The Freedom from Unsafe Restraint and Seclusion Act; Senate Sub. for Sub. for HB 2170

Senate Sub. for Sub. for HB 2170 creates the Freedom from Unsafe Restraint and Seclusion Act (Act), regarding the use of seclusion and restraint of students in the school setting. The bill defines key terms; addresses the use of emergency safety intervention (ESI); requires notification and documentation of the use of ESI; provides a process for a parent to file complaints through the local dispute resolution process and the State Board of Education (Board) complaint process; requires the Kansas Department of Education (Department) to collect data on the use of ESI; requires the Board to adopt rules and regulations necessary to implement the Act; and establishes the ESI Task Force.

Definitions

The bill defines key terms, including:

- “Emergency safety intervention” means the use of seclusion or physical restraint;
- “Physical restraint” means bodily force used to substantially limit a student’s movement, but does not include consensual, solicited, or unintentional contact or contact to provide comfort, assistance, or instruction;
- “School” means any learning environment, including any nonprofit institutional day or residential school and any accredited nonpublic school that receives public funding or is under the regulatory authority of the Department; and
- “Seclusion” means the student was:
 - Placed in an enclosed area by school personnel;
 - Purposefully isolated from adults and peers; and
 - Prevented from leaving, or the student reasonably believes he or she will be prevented from leaving, the enclosed area.

Use of ESI

The bill allows for the use of ESI only if a student presents a reasonable and immediate danger of physical harm to self or others with the present ability to effect such physical harm. ESI used for discipline, punishment, or the convenience of a school employee does not meet the standard of immediate danger of physical harm, however. Further, the bill specifies the school employee witnessing the student's behavior must determine whether less restrictive alternatives to ESI, such as positive behavior interventions support, are inappropriate or ineffective prior to the use of ESI. The use of ESI must cease as soon as the immediate danger of physical harm ceases to exist. Violent action that is destructive of property may necessitate the use of ESI.

Use of Seclusion

The bill prohibits the use of seclusion if the student is known to have a medical condition that may put the student in mental or physical danger as a result of seclusion. Such medical condition must be indicated by the student's licensed health care provider in a written statement, with a copy provided to the school and placed in the student's file.

The bill requires school personnel be able to see and hear the student in seclusion at all times. Seclusion rooms equipped with a locking door must have a lock that automatically disengages when the school employee viewing the student walks away from the seclusion room, or in cases of emergency, such as fire or severe weather. A seclusion room must be a safe place with proportional and similar characteristics as other rooms frequented by students, free of any condition that may endanger the student, and well-ventilated and sufficiently lit.

Documented Use of ESI

When a student is subjected to ESI, the bill requires the school to notify the parent or, if a parent cannot be notified, an emergency contact person for such student the same day ESI is used. Further, the bill requires documentation of ESI used be completed and provided to the parent no later than the school day following the day on which ESI is used. After the first incident in which ESI is used during the school year, the parent also is to be given:

- A copy of the standards for the use of restraint and seclusion;
- A flier regarding parent's rights;
- Information on the parent's right to file a complaint through the local dispute resolution process and the complaint process of the Board; and
- Information to help navigate the complaint process, including contact information for the parent training and information center and protection and advocacy system.

On the first occurrence of an incident involving the use of ESI, the bill requires the information be provided in printed form. After each subsequent incident that occurs during the school year, the full website address containing the information is to be provided.

Parental Appeal Rights

If a parent believes ESI was used in violation of the Act, rules and regulations adopted pursuant to the Act, or policies of the school district, a parent may file a complaint through the local dispute resolution process within 30 days of being informed of the use of ESI. Within 30 days of the final decision from the local dispute resolution process, parents may file a complaint under the Board complaint process.

Data Reporting on Use of ESI

The bill requires the Department to compile reports from schools on the use of ESI and provide the results based on aggregate data on the Department website and to the Governor and the Committees on Education in each chamber by January 20, 2016, and annually thereafter. The reported results must include, at a minimum:

- The number of incidents in which ESI was used on students who have individual education plans (IEPs);
- The number of incidents in which ESI was used on students who have section 504 plans;
- The number of incidents in which ESI was used on students who do not have IEPs or section 504 plans;
- The total number of incidents in which ESI was used on students;
- The total number of students with behavior intervention plans subjected to ESI;
- The number of students physically restrained;
- The number of students placed in seclusion;
- The maximum and median number of minutes a student was placed in seclusion;
- The maximum number of incidents in which ESI was used on a student;
- All of the information reported above aggregated by age and ethnicity of the students on a statewide basis;
- To the extent possible, the information reported by the school on the number of incidents in which ESI was used on students with IEPs, section 504 plans, or neither; and
- Such other information as the Department deems necessary to report.

Third Use of ESI

If there is a third incident involving the use of ESI within a school year on a student who has an IEP or a section 504 plan, the bill requires such student's IEP team or section 504 plan team to meet within ten days of the incident to discuss the incident and consider the need to conduct a functional behavioral analysis, develop a behavior intervention plan, or amend either if already in existence, unless the team has agreed on a different process.

If there is a third incident using ESI on a student without an IEP or section 504 plan, the bill requires a meeting to be conducted within ten days of the incident to discuss the incident and consider the appropriateness of a referral for an evaluation under the Special Education for Exceptional Children Act; the need for a functional behavioral analysis; or the need for a behavior intervention plan. The meeting is to involve the parent, an administrator for the school the student attends, one of the student's teachers, a school employee involved in the incident, and such other employees designated by the administrator as appropriate for the meeting. The student also is to be invited to the meeting. If the parent of the student is unable to attend within the ten-day limit, the time for calling the meeting is to be extended.

The bill specifies this section is not to be construed to limit similar actions prior to the occurrence of a third incident.

Rules and Regulations Authority

The bill requires the Board to adopt rules and regulations necessary to implement the provisions of the Act on or before March 1, 2016. The rules and regulations must include, but not be limited to, the standards for the use and reporting of ESI.

Creation of the ESI Task Force

The bill establishes the ESI Task Force (Task Force), which is charged with studying and reviewing the use of ESI and preparing a report on its findings and recommendations concerning the use of ESI. The report is to be submitted to the Governor and the Legislature on or before January 20, 2016. The 17-member task force is to be appointed as follows:

- Two members appointed by the Board, one of which must be a Board member and the other a Department attorney;
- Two members appointed by the Disability Rights Center of Kansas;
- Two members appointed by Families Together, Inc., one of which must be a parent of a child with a disability;
- Two members appointed by Keys for Networking, Inc., one of which must be a parent of a child with a disability;
- Two members appointed by the Special Education Advisory Council;

- Two members appointed by the Kansas Association of Special Education Administrators;
- Two members appointed by the executive director of the Kansas Council on Developmental Disabilities, one of which must be a parent of a child with a disability;
- Two members appointed by the Kansas Association of School Boards (KASB), one of which must be a KASB attorney; and
- One member appointed by the Center for Child Health and Development of the University of Kansas Medical Center, who must be a person licensed to practice medicine and surgery in Kansas and is a practicing physician with experience treating children with disabilities, but who is not a staff member of the Center for Child Health and Development of the University of Kansas Medical Center.

The appointed Board member is to call an organizational meeting on or before August 1, 2015. At such meeting, the members are to elect a chairperson and vice-chairperson from the membership of the Task Force and consider dates for future meetings, the agenda for such meetings, and the need for electing a facilitator to assist in discussions among the members of the Task Force. The Task Force may meet at any time and place within Kansas on the call of the Chairperson. All Task Force action is to be by motion adopted by a majority of those members present when there is a quorum, which is eight members. If approved by the Legislative Coordinating Council, members are to be paid for expenses, mileage, and subsistence.

Sunset

The provisions of the bill expire on June 30, 2018.

Education—Non-resident Students, Valuation, Negotiations, Related Appropriations; Senate Sub. for HB 2353

Senate Sub. for HB 2353 makes several changes to the Classroom Learning Assuring Student Success Act (House Sub. for SB 7; law effective on April 2, 2015); revises the Professional Negotiations Act (PNA); and allows the Board of Regents to adopt policies to authorize the universities to provide leave time to university support staff. In addition, the bill makes appropriations related to some of these changes. The bill includes these provisions:

- Allows any student who is not a resident of a school district and is attending the district in the 2014-15 school year to attend school in that district in the 2015-16 and 2016-17 school years. If transportation for the student is provided in the 2014-15 school year, there is no change in the student's residence, and no requirement to furnish transportation to any additional residence, transportation will be provided in the subsequent years as well. Behavioral policies of a school district apply to non-resident students, the same as resident students. (This provision applies to the non-resident student and any member of that student's family, regardless of whether that family member had attended the non-resident school district in school year 2014-15);

- Prohibits all out-of-state virtual students from being eligible for state aid;
- Clarifies the school finance computation of assessed valuation for any school district experiencing a significant drop in total assessed valuation between school years 2014-15 and 2015-16 (House Sub. for SB 7 allows districts to use the assessed valuation of the district for school year 2015-16 for purposes of determining the amounts of supplemental general state aid and capital outlay state aid for school year 2014-15);
 - An appropriation of \$1.5 million for each Fiscal Year (FY) 2016 and 2017 is added related to this change;
- Clarifies references to contractual bond obligations so that the statute refers to the date the obligations were approved by election, rather than when such obligations were incurred;
- Adds an amount of general state aid in school years 2015-16 and 2016-17 equal to the difference between federal impact aid received in school year 2014-15 and the amount of that aid received in 2015-16, if the latter year is less;
 - An appropriation of \$3.0 million for each FY 2016 and 2017 is added related to this change;
- Provides for an increase in the demand transfer for capital outlay state aid from the State General Fund in an amount of \$1.8 million, which prevents school districts from being required to pay back funding received under the formula repealed by House Sub. for SB 7;
- Revises the PNA to provide that, upon entering negotiations, the parties must negotiate compensation of professional employees and hours and amounts of work. Compensation is defined as salary and wages, supplemental contract salaries, and overtime pay. Further, each party can select up to three additional terms and conditions of professional service from among those listed in the PNA's definition of "terms and conditions of professional service." All other items included in the definition are permissive topics for negotiation if the parties mutually agreed to discuss them. These provisions do not apply to the negotiations of a first-time agreement between a board of education and a professional employees' organization. Individuals selected to conduct negotiations by the board of education and the professional employees' organization are required to complete training on conducting negotiations each year. Finally, the deadline for filing notice to negotiate on new items or to amend an existing contract is changed from February 1 to March 31 and the "statutory declaration of impasse date" from June 1 to July 31; and
- Allows the Board of Regents to adopt rules and regulations to authorize the universities to provide leave time to university support staff.

ELECTIONS AND ETHICS

Elections Crimes; SB 34

SB 34 creates or amends laws related to elections crimes, prosecution of those crimes, and elections definitions.

Regarding election crimes and prosecution of those crimes, the bill does the following:

- Creates a separate crime of voting more than once, which currently is incorporated in the crime of voting without being qualified. The new crime is defined as intentionally voting or attempting to vote more than once in the same jurisdiction in an election held on a particular date, voting in more than one U.S. jurisdiction in an election held on a particular date, or inducing or aiding any person to take the above actions. The crime is a severity level 7, nonperson felony, and the general criminal attempt statute does not apply to the crime;
- Creates new law that gives the following officials independent authority to prosecute any person for a Kansas election crime: the district attorney or county attorney of the county where such violations occurred, the Kansas Attorney General, and the Kansas Secretary of State. Once one of the listed officers has commenced prosecution of a person for an election crime, the other officers may assist in the prosecution but may not commence a separate prosecution;
- Amends the statute prohibiting or requiring certain actions with regard to advance voting to increase the severity level for a violation of its provisions from a class C misdemeanor to a severity level 9, nonperson felony;
- Amends the election bribery statute to add an exemption for a business or organization providing a product worth less than \$3.00 to any person who asserts such person has voted, without regard to the voter's vote for or against a candidate or issue;
- Amends the crime of voting without being qualified to remove the provisions regarding voting more than once (which becomes a separate crime, as described above) and defines the crime as voting or attempting to vote in any election district when not a lawfully registered voter in that district, or voting or attempting to vote at any election by a person who is not a U.S. citizen, or who does not otherwise qualify as an elector. The severity level of this crime is increased from a class A misdemeanor to a severity level 7, nonperson felony, and the general criminal attempt statute does apply to the crime;
- Increases the severity level for the crime of election tampering from a severity level 8 to a severity level 7, nonperson felony; and
- Clarifies that the crime of false impersonation of a voter can occur by representing oneself as another person whether real or fictitious, and increases the severity level of this crime from a severity level 9 to a severity level 8, nonperson felony.

The bill also amends the declaration signed by voters in the registration book to replace the phrase "at this election" with "in the election held on this date, in this or any other jurisdiction in the United States, for any offices or ballot issues."

Filling Party Candidacy and Certain City Vacancies; Repealing Presidential Primary Statute; Moving Election Dates; HB 2104

HB 2104 makes changes and additions to election law. The bill addresses the reasons for and filling of party candidacy vacancies for any national, state, county, or township office; repeals the presidential primary law and replaces it with a new requirement on political parties; and moves election dates for certain offices and makes related changes.

Filling Party Candidacy Vacancies

The bill deletes language allowing a candidate to withdraw his or her candidacy after the primary election due to being incapable of fulfilling the duties of office, replaces it with the ability to withdraw a nominee's name for medical reasons or because the nominee does not live in Kansas, revises law addressing removal of the name of a nominee who has died, and more clearly states the meaning of the word "shall" in the statutes dealing with the requirement that a party fill a vacancy on the ballot for several offices. The bill makes deadline and other related changes as well.

Reasons Allowed for Vacancies

The bill replaces the reason of incapability to fulfill office duties by doing the following:

- Deleting law requiring the Secretary of State, for national and state offices, or the county election officer, for county and township offices, to remove from the ballot the name of any nominee who declares he or she is incapable of fulfilling duties of office if elected, and then withdraws; and
- Replacing the deleted portion with language stating a person who has been nominated may be withdrawn from nomination under the following circumstances:
 - The nominee must certify to the Secretary of State a notice he or she is withdrawing because of a severe medical hardship to self or immediate family, with certification of medical hardship signed by a doctor; or
 - The nominee must certify to the Secretary of State a notice he or she does not reside in the state of Kansas.

The bill revises the provision in law addressing removal of the name of a nominee who has died, by doing the following:

- Eliminating the requirement that a request to remove the name from the ballot come from the chairperson of the county party committee before a replacement can be named, instead leaving the fact of the death as the notification;
- Requiring the Secretary of State (for national and state offices) or the county election officer (for county or township offices) notify the chairperson or vice-chairperson of the appropriate party committee within 48 hours of receiving the notification of death;

- Making the name removal a requirement, instead of an option; and
- Adjusting related deadlines as necessary.

“Shall” Means “Shall”

The bill requires, with respect to the sections of law addressing filling a party candidacy vacancy in a district office, on the State Board of Education, and in all other congressional district, county, or state offices: (a) the certificate executed under oath by the convention chairperson or vice-chairperson also state the person elected agrees to accept the nomination; and (b) the person elected execute a notarized statement stating he or she agrees to accept the nomination. The bill requires such certification be transmitted within 21 days of receipt of notice the vacancy has occurred or will occur for a district vacancy and within 14 days for other vacancies addressed by the bill.

In all three of these sections, with respect to the use of the word “shall,” the bill states: “[T]he word ‘shall’ imposes a mandatory duty and no court may construe that word in any other way.”

Deadline and Related Changes

The bill makes the following deadline changes:

- For the office of district attorney, changes the date of filing for candidacy from June 10 to the date specified in KSA 2014 Supp. 25-205(a), which is June 1 with alternate provisions if that date falls on a weekend or holiday; and
- Regarding the deadline by which a district convention must fill a vacancy:
 - For a district office, reduces from 21 to 14 the number of days after receipt of the notice of vacancy to call or convene a convention; and reduces from 14 to 6 the number of days, after adjournment of a convention in which a quorum was not present, by which a new convention must be held; and
 - For the State Board of Education, reduces from 21 to 10 the number of days after receipt of the notice of vacancy to call or convene a convention and from 14 to 3 the number of days, after adjournment of a convention in which a quorum was not present, by which a new convention must be held.

Presidential Preference Primary

The bill repeals the statute calling for a presidential preference primary election and replaces it with new law requiring each recognized political party to select a presidential nominee in accordance with party procedures, also required to be developed by the bill, for every presidential election beginning with the 2016 election.

Moving Election Dates

The bill moves all elections for office holders of local governments currently held in the spring of odd-numbered years to the fall of odd-numbered years, with one exception (described below). In general, the elections remain nonpartisan, although a city may choose to make its elections partisan. Sections to be added to the law, are cited as the Help Kansas Vote Act.

Beginning in 2017, the election dates for the specified units of local government will mirror the election dates for the elections held in even-numbered years. That is, the primary election will be held on the first Tuesday in August, and the general election will be held on the Tuesday following the first Monday in November. The elections, to be administered by the county election officers, will be consolidated into one ballot, which will be prescribed by the Secretary of State through rules and regulations. Those entities currently with district method elective offices (*i.e.*, cities and school districts) will retain that authority.

Local units of government affected are included in the definition of municipalities as the following:

- Cities;
- The consolidated city-county governments of Wyandotte County and Kansas City, Kansas, and Greeley County;
- School districts;
- The Kansas City Board of Public Utilities;
- Community colleges;
- Drainage districts;
- Extension districts formed pursuant to KSA 2-623 *et seq.*;
- Irrigation districts;
- Improvement districts formed pursuant to KSA 19-2753 *et seq.*;
- Water districts formed pursuant to KSA 19-3501 *et seq.* (Water One); and
- Hospital districts formed pursuant to KSA 2014 Supp. 80-2501 *et seq.*

Not included is any special district where governing body member elections are conducted at a meeting of the special district.

Provisions Specific to Cities

The bill makes these changes specific to cities:

- The one exception to elections being in odd-numbered years is the option the bill provides cities to also have elections in even-numbered years, for the purpose of staggering terms or having three-year terms of office;
- All existing ordinances and charter ordinances, except those relating to the timing of primary and general elections, remain in effect until amended or repealed by the city;
- Provisions are added to clarify the forms of government any city could adopt and how frequently a city could change its form of government;
- Numerous statutes are changed and some new sections added to make city election law uniform and not differ by class of city;
- A city governing body is authorized to determine whether that city's elections will be nonpartisan or partisan; and
- A vacancy on the governing body of any city or consolidated city and county must be filled by special election when the following conditions exist:
 - The municipality does not have its own procedure for filling vacancies and has not filled any such vacancies within 60 days; and
 - The governing body has not made an appointment to fill the vacancy within 60 days of the vacancy.

Provision Specific to School Districts

All unified school districts must make available, upon request of the county election officer, suitable school buildings for polling places. The county election officer must notify the school district superintendent on or before January 1.

Voter Education, Official Municipal Ballot, Declaration of Intent, Ballot Length

Voter Education

The Secretary of State must develop a public information program to inform the public of the changes related to moving elections from spring to fall, including an explanation of which offices' elections are involved. The information program must use advertisements and public service announcements, in addition to posting information on the official websites of the Secretary of State and county election officers. The bill requires the Secretary of State and county election officers to develop dedicated websites to provide voter education and sample ballots.

Official Ballot, Declaration of Intent, and Election Procedures

The bill requires the Secretary of State to prescribe the official ballot style and form for municipal offices and the declaration of intent to become a candidate. Candidates must file the

declarations with the county election officer no later than noon, June 1, in even- and odd-numbered years, with an exception provided if that date falls on a weekend or a holiday. For entities where a primary election is not authorized or otherwise required, the declaration of intent must be filed no later than noon on September 1, with a similar exception provided. The Secretary of State also must establish primary and general election procedures for municipalities, and adopt rules and regulations to implement this section on or before July 1, 2016. County election officers, in consultation with the Secretary, must develop ways to reduce ballot length and expedite the voting process.

The county election officers must arrange and print the official primary election ballot for municipal elections in odd-numbered years.

The Secretary of State must establish (for various elections) the arrangement of names and offices on ballots, develop ballots, and establish ballot styles, all in accordance with rules and regulations adopted by July 1, 2016.

Other Changes

The bill specifies expiration dates for the terms of members of governing bodies and other elected officials of all municipalities. Under the bill, those that would have expired at any time in 2017 will expire on the second Monday in January of 2018.

The bill deletes or replaces several provisions in law to comport with the bill's intent of consolidating all spring elections for officials to the fall. This includes changes in primary and general election filing deadlines and procedures, terms of office, ballot creation and canvassing, periods of time when school and community college districts could change their methods of election, and notices of elections.

The bill increases each voter's time limit in the voting booth from five minutes to ten minutes, when other voters are waiting.

The bill increases candidate filing fees from \$5 or \$10 to \$20 and specifies a \$20 filing fee for any municipal office included in the bill.

The bill requires the county election officer to notify each person on the permanent advance voting list who has failed to vote in four (increased from two) general elections that the person must renew the application for permanent advance voting status or be removed from the permanent advance voting list; the general elections include those held in odd-numbered years.

The bill changes the number of 16- or 17-year-olds who are allowed to serve on each election board, from 1 to 1/3 of those appointed to the election board. It also requires each 16- or 17-year-old so appointed to have a letter of recommendation from a school teacher, counselor, or administrator.

Candidate and Lobbyist Ethics and Reporting; Social Media; Political Signs; KGEC Fees; HB 2183

HB 2183 makes a number of changes to ethics and elections law. The bill amends statutes concerning campaign communications *via* social media, use of state or municipal

internet connectivity in government buildings, allowable uses and disposition of campaign funds, lobbyist and candidate reporting requirements, and disclosure requirements for certain contributions. The bill also creates law regarding political sign placement. Finally, the bill increases fee amounts credited to the Kansas Governmental Ethics Commission (KGEC) Fee Fund.

Social Media and Campaign Contributions

Regarding these communications, the bill:

- Allows a general public solicitation for campaign contributions during legislative session not targeted toward a specific individual and distributed *via* social media. This is accomplished by providing an exception to the prohibition against soliciting any contribution from specified individuals and groups from January 2 through *sine die* adjournment of the Legislature. Individuals and entities otherwise prohibited from soliciting contributions during this time are any legislator, legislative candidate, statewide-elected officer or candidate for statewide-elected office, candidate committee for any of these, or political committee established by a state party committee and designated as a recognized political committee for the Senate or House of Representatives;
- Makes an exemption from the definition of “corrupt political advertising of a state or local office.” The crime, as defined in law, includes publishing, broadcasting, telephoning, or otherwise advertising any paid matter expressly advocating for or against a clearly identified candidate for state or local office, unless the matter includes information as to who paid for or sponsored the advertisement. The bill exempts the publication of any such communication made over any social media provider that has a character limit of 200 characters; and
- Defines “social media” for the purposes of this act as an electronic medium allowing users to create and view user-generated content, with some content examples given in the definition.

Use of State or Municipal Internet Connectivity

State law prohibits officers or employees of the state or any municipality from using any public money, equipment, supplies, or employee work time to expressly advocate for or against a clearly identified candidate. The bill creates an exemption allowing the use of Internet connectivity provided by the State of Kansas or any municipality to any candidate or elected official.

Allowable Uses and Disposition of Campaign Funds

The bill amends the Campaign Finance Act to explicitly authorize campaign funds to be used for donations to any 501(c)(3) tax-exempt or any religious organization. The law has allowed use of campaign funds for donations to a community service or civic organization.

The bill also specifies that, if a candidate dies with an open candidate committee account containing campaign funds, the executor or administrator of the candidate's estate will be responsible for terminating the committee and disposing of the remaining funds.

Definition of "Lobbying"; Who Must Register

The bill increases the threshold, from \$100 to \$1,000 in any calendar year, below which a person spending money on activity that meets the definition of lobbying will not be required to register as a lobbyist. The exemption of personal travel and subsistence expenses from this threshold amount remains intact.

Lobbyist Reporting Requirements

The bill deletes the requirement that a lobbyist file a year-end summary report when the lobbyist has spent an aggregate amount of less than \$100 for lobbying in any reporting period during that year.

The bill requires every person registered as a lobbyist to file, beginning January 10, 2017, with the Secretary of State a detailed report listing the amount of public funds paid to hire or contract for the lobbying services on behalf of a governmental entity or any association of governmental entities that receives public funds (association). The bill requires the following with respect to this report:

- The report must include a listing of which association hired the lobbyist;
- The report form will be prescribed by the KGEC;
- The report must be a public record, open to public inspection upon request;
- The deadline for filing the report is January 10 for the previous calendar year;
and
- The Secretary of State is required to make the reports available on a publicly searchable website.

Candidate Reporting Requirements

The bill increases the amount that triggers whether the candidate may file an affidavit instead of a detailed reporting of campaign contributions or expenditures. Under the bill, if a candidate intends to spend less than \$1,000 (increased from \$500) and receive less than \$1,000 (increased from \$500) for either the primary or general election, the candidate will be required to file an affidavit of such intent with the county election officer. By revising both KSA 25-904 and KSA 25-4173, this change affects every candidate for election to any state office or office of the following local governments: cities of the first, second, or third class; unified school districts; counties; community colleges; townships; and the Board of Public Utilities.

The bill also removes a requirement a campaign report the industry of an individual contributor of more than \$150.

Political Sign Placement

The bill prohibits any city or county from regulating or prohibiting the placement of or the number of political signs on private property or on unpaved right-of-way for city streets or county roads on the private property during the 45 days prior to, and the 2 days following, any election. The bill permits cities and counties to regulate the size and a set-back distance for the placement of signs so as to not impede sight lines or sight distance for safety reasons.

KGEC Fees

The bill increases certain fees credited to the KGEC Fee Fund.

Filing fees for candidates for these offices are increased:

<u>Candidates Affected</u>	<u>Prior Amount</u>	<u>Amount in Bill</u>
Governor and Lieutenant Governor	\$ 480	\$ 650
Other statewide offices	480	650
State senator, state representative, State Board of Education, district attorney, Board of Public Utilities of the City of Kansas City, and elected county offices	35	50
Members of boards of education of unified school districts having 35,000 or more pupils, members of governing bodies of cities of the first class, and elected district court judges	35	50

Fees for political committees that anticipate receiving these amounts in any calendar year are increased:

<u>Political Committees Affected</u>	<u>Prior Amount</u>	<u>Amount in Bill</u>
\$2,501 or more	\$ 240	\$ 300
More than \$500 but less than \$2,501	35	50
\$500 or less	20	25
Filed anticipating less than \$2,500 but receipts exceed \$2,500	240 minus previous fee	300 minus previous fee
Filed anticipating less than \$500, but receipts exceed \$500 and are less than \$2,501	20	25

Fees paid by registered lobbyists are increased:

<u>Lobbyists Affected</u>	<u>Prior Amount</u>	<u>Amount in Bill</u>
Anticipated spending of \$1,000 or less on behalf of any one employer (per employer)	\$ 35	\$ 50
Anticipated spending of more than \$1,000 on behalf of any one employer (per employer)	300	350
Additional fee if anticipated spending on behalf of any one employer is less than \$1,000, but actual spending exceeds \$1,000	220	300
Employee of a lobbying group or firm (not an owner or partner)	360	450

ENERGY AND UTILITIES

Renewable Energy Standard; Property Tax Exemption; House Sub. for SB 91

House Sub. for SB 91 replaces the renewable energy portfolio requirements with a voluntary renewable energy goal, reduces the lifetime property tax exemption to ten years for new renewable resources after December 31, 2016, and excludes individuals or companies that generate electricity from renewable resources at wholesale only from the definition of public utility.

Renewable Energy Goal

The bill establishes the following renewable energy standard for Kansas, as of January 1, 2016: a voluntary goal that 20 percent of a utility's peak demand within the state be generated from renewable energy resources by the year 2020. The bill also declares it is in the public interest to promote renewable energy development in order to best utilize the abundant natural resources found in the state.

On January 1, 2016, the voluntary goal will replace the current renewable energy portfolio standard that requires affected utilities to achieve net renewable generation capacity equal to at least 20 percent of the utility's peak demand by the year 2020, either by generating or purchasing electricity from renewable resources or by purchasing renewable energy credits. The portfolio standard also sets intermediate standards to be achieved for the years 2011 through 2015 (10 percent) and the years 2016 through 2019 (15 percent).

The bill continues all rules and regulations of the Kansas Corporation Commission (KCC) in effect on June 30, 2015, that allow a utility to recover costs incurred to meet the renewable portfolio standard (RPS). In addition, the KCC will be required to allow affected utilities to recover reasonable costs that have been:

- Committed to be incurred to comply with the RPS prior to its repeal; or
- Incurred as a result of meeting the 20 percent goal. The bill also specifies nothing in the Act shall be construed to impair any existing contracts, leases, or agreements.

The bill repeals statutes related to the mandate that required the KCC to promulgate rules and regulations to do the following: establish renewable portfolio requirements, calculate and report the statewide retail rate impact of the portfolio requirements, set penalties for violations of portfolio requirements, and establish a certification process for use of renewable energy resources. The bill also deletes definitions specific to the existing mandate.

Changes to Property Tax Exemption

The bill provides a property tax exemption for the life of property that is actually and regularly used to generate electricity using renewable energy resources or technologies if the facility files an application for an exemption or received a conditional use permit on or before December 31, 2016.

After December 31, 2016, exemptions granted for property primarily used for wholesale sale of renewable energy resources for which applications were filed after December 31, 2016, will be limited to ten years.

The bill amends a law governing certain property tax exemptions to state an electric generation facility used predominantly to produce and generate electricity utilizing renewable energy resources or technologies will not qualify for a commercial and industrial machinery property or *ad valorem* tax exemption.

Definition of Public Utility for Property Tax Classification

The bill specifically excludes from the definition of public utility any entity to the extent that its activities or facilities generate, market, or sell electricity at wholesale only, has no retail customers, and is produced and generated using renewable energy resources or technologies.

Land-Spreading of Drilling Waste; Disposal of Radioactive Materials; Water Quality Variances; SB 124

SB 124 authorizes the Secretary of Health and Environment to adopt rules and regulations on the land-spreading of solid waste generated by drilling oil and gas wells. The bill extends indefinitely the land-spreading program managed jointly by the Kansas Department of Health and Environment (KDHE) and Kansas Corporation Commission (KCC).

The bill requires the seller of any property where land-spreading has occurred within the previous three years to disclose the land-spreading to any potential purchaser of the property prior to closing. In addition, the bill requires the KCC, in coordination with KDHE, to annually present a report on land-spreading to the Senate Committee on Natural Resources, Senate Committee on Utilities, Senate Committee on Ways and Means, House Committee on Agriculture and Natural Resources, House Committee on Energy and Utilities, and House Committee on Appropriations.

The bill allows for the disposal of waste containing low concentration of naturally occurring radioactive materials (NORM) and technologically-enhanced NORM (TENORM) by underground burial. The underground burial of all low-level radioactive waste had been prohibited. The bill authorizes the Secretary of Health and Environment to promulgate rules and regulations on or before July 1, 2016, regarding the allowable concentrations and sources of NORM and TENORM waste.

The bill also updates the definition of “by-product material” with the language specified by the federal Nuclear Regulatory Commission and replaces a reference to a Board that no longer exists with a reference to the Secretary of Health and Environment.

Finally, the bill allows the Secretary of Health and Environment, through rules and regulations, to establish variances to water quality standards that may apply to specified pollutants, permittees, or waterbody segments that reflect the highest attainable condition during the specified time period for the variance.

Gas Wells for Personal Use; Abandoned Oil and Gas Well Fund; HB 2231

HB 2231 allows an operator of one or more natural gas wells to obtain an annual license from the Kansas Corporation Commission (KCC) when the natural gas wells are used strictly for personal use on the property where the gas wells are located. The fee will be \$25, rather than the standard \$100 annual license fee under prior law. Also under prior law, applicants for an annual license were permitted to pay the reduced fee of \$25 for those operating one gas well used strictly for the purpose of heating a residential dwelling.

The bill extends the sunset date on the statutory transfers to the Abandoned Oil and Gas Well Fund (Fund) of the KCC from July 1, 2016, to July 1, 2020. The bill also deletes a quarterly transfer of \$100,000 from the State Water Plan Fund to the Fund and increases the quarterly transfer from the KCC's Conservation Fee Fund to the Fund from \$100,000 to \$200,000.

In addition, the bill deletes law regarding a prohibition on transfers from the State General Fund to the Fund in FY 2013, FY 2014, and FY 2015 and the aggregate amount of the transfers from the State Water Plan Fund to the Fund in those three fiscal years.

Clean Power Plan—Authority of the Secretary of Health and Environment; Memorandum of Understanding Between the Secretary of Health and Environment and the KCC; Clean Power Plan Implementation Study Committee; Submission of a Plan to the Committee and to the U.S. Environmental Protection Agency; HB 2233

HB 2233 establishes the procedure for developing and submitting a state plan (Plan) to the federal Environmental Protection Agency (EPA) to comply with the proposed federal Clean Power Plan (CPP) rule.

Authority of the Secretary of Health and Environment

The bill authorizes the Secretary of Health and Environment (Secretary) to develop and submit a Plan to the EPA for compliance with the requirements of the proposed federal CPP rule.

The Secretary is authorized to implement the Plan through flexible regulatory mechanisms, including the averaging of emissions, emissions trading, or other alternative implementation measures that the Secretary determines to be in the interest of Kansas.

The Secretary also may enter into voluntary agreements with utilities that operate fossil-fuel-based electric generating units with Kansas to implement these carbon dioxide emission standards. The agreements may aggregate the carbon dioxide emissions levels from electric resources in the state, including coal, petroleum, natural gas, or renewable energy resources as defined in statute that are owned, operated, or utilized by power purchase agreements by utilities for purposes of determining compliance with the carbon dioxide emission standards.

MOU—Secretary of Health and Environment and the Kansas Corporation Commission

The Secretary and the Kansas Corporation Commission (KCC) are required to enter into a memorandum of understanding (MOU) concerning implementation of the requirements and responsibilities under the Kansas Air Quality Act.

Clean Power Plan Implementation Study Committee

The bill creates the Clean Power Plan Implementation Study Committee (Committee), which will hold informational hearings and receive updates from the Kansas Department of Health and Environment (KDHE), KCC, and the Attorney General about the implications of the adoption of a Plan for the CPP. The Committee will be made up of 11 voting members:

- Five members from the Senate Committee on Utilities, including:
 - Chairperson;
 - Vice-chairperson;
 - Ranking Minority Member; and
 - Two others appointed by the President of the Senate;
- Six members from the House Committee on Energy and Environment, including:
 - Chairperson;
 - Vice-chairperson;
 - Ranking Minority Member; and
 - Three others appointed by the Speaker of the House.

Members were to be appointed on or before July 1, 2015, for a term ending on June 30, 2017, when the Committee would sunset. Staff of the Office of Revisor of Statutes, Legislative Research Department, and Division of Legislative Administrative Services will provide any assistance as requested by the Committee.

Submission of a Plan and Information to the Committee

The Secretary is required to submit to the Committee:

- A plan to investigate, review, and develop a Plan no later than the first week of November 2015;
- Information on any final rule adopted by the EPA regarding the CPP no later than February 1, 2016; and

- Any information requested by the Chairperson of the Committee.

The KCC is required to submit to the Committee:

- Information regarding each utility's re-dispatch options along with the cost of each option;
- The lowest possible cost re-dispatch options on a state-wide basis; and
- The impact of each re-dispatch option on the reliability of Kansas' integrated electric systems

If a proposed Plan is disapproved by the Committee, the Secretary will be required to resubmit a revised Plan to the Committee.

Submission of a Plan to the EPA

Prior to submitting any Plan to the EPA, the Secretary will be required to:

- Submit the Plan as proposed rules and regulations;
- Request a review of the proposed Plan by the Office of the Attorney General, who may certify to the Secretary that the Plan will not hinder, undermine, or harm the State's position in any current or pending litigation relating to the federal CPP rule; and
- Not submit a Plan if the Attorney General review indicates the Plan would adversely impact the State's legal position in any current or pending litigation relating to the federal CPP rule.

Submission of the Plan to the EPA is dependent upon the final adoption of the federal CPP rule. If the federal emission guidelines are not adopted, or are adopted and subsequently suspended or vacated in whole or part, the Secretary is prohibited from carrying out the Plan.

The Secretary is responsible for submitting a Plan to the EPA in a timely manner. The Secretary is required to prepare and submit any request for an extension of time to file a Plan, if necessary, an interim Plan or a final Plan to the EPA. Any interim or final Plan will be submitted by the Secretary no less than four calendar days prior to the federal submission deadline, or extended submission deadline, established by the EPA. Any final Plan submitted to the EPA may be submitted only if the Secretary has previously submitted the Plan for review by the Committee. The Secretary may submit any proposed Plan to the EPA that has been submitted to the Committee and has not been disapproved by the Committee within 30 days of the Committee receiving the Plan.

ENVIRONMENT

Environmental Stewardship Fund; HB 2192

HB 2192 creates the Environmental Stewardship Fund (Fund) in the Department of Health and Environment (KDHE) to pay for remediation activities at contaminated “orphan” sites, *i.e.*, sites with no party responsible for cleanup. It is funded by a portion of the proceeds from the environmental assurance fee, a \$0.01 per gallon fee already being assessed on petroleum products other than aviation fuel. The Fund has an operating minimum of \$2.0 million and a maximum of \$5.0 million.

The bill also creates an incentive program for owners of single-wall underground petroleum tanks who replace those tanks with secondary containment systems. The incentive program will reimburse applicants no more than \$50,000 per facility. The incentives will be paid from the Underground Storage Tank (UST) Redevelopment Fund, up to a maximum of \$3.0 million per fiscal year. As part of this program, KDHE will waive the first costs of corrective action if contamination is discovered during the tank replacement. Essentially, this waives the “deductible” a tank owner must pay before being eligible for UST Trust Fund moneys to assist with cleanup. The Secretary of Health and Environment is authorized to adopt rules and regulations deemed necessary to carry out the program.

Environmental Remediation; HB 2193

HB 2193 establishes the Voluntary Risk Management Program and amends law regarding the Voluntary Cleanup and Property Redevelopment Act.

Voluntary Risk Management Program

The bill establishes the Voluntary Risk Management Program (Program), which will be administered by the Kansas Department of Health and Environment (KDHE) for low-risk contaminated sites. The bill also creates the Risk Management Fund (Fund).

A responsible party who chooses to participate in the Program enters into an enforceable agreement with KDHE to carry out remediation activities agreed to in a risk management plan and pays a one-time fee of at least \$2,500, which will be deposited in the Fund. The Fund can be used to administer the Program and perform necessary remediation activities if one of the sites in the Program becomes orphaned (no responsible party) in the future. A risk management plan can be terminated if KDHE determines the plan is no longer necessary.

The Secretary of Health and Environment is required to adopt rules and regulations to implement the provisions of the Program.

Voluntary Cleanup and Property Redevelopment Act

The bill also amends the Voluntary Cleanup and Property Redevelopment Act (Act), which is administered by the KDHE Bureau of Environmental Remediation. The bill makes the following changes:

- Allows KDHE to issue a determination that no further remedial action is needed at a site based on the results of a risk analysis that evaluates the property and surrounding properties as a whole. Under prior law, sites could not be closed if contamination exceeded state standards, regardless of the risk to human health or the environment;
- Adds a requirement that the voluntary cleanup plans and associated documents be available for public review upon request from a member of the public. The plans and documents also must be indexed and posted on the KDHE website, upon determination by KDHE that a voluntary cleanup plan is acceptable, and for at least five years after the determination that no further remedial action is needed at the site;
- Allows KDHE to issue a nearby, non-responsible property owner who had contamination migrate to that property a determination that no further remedial action is needed even if the party responsible for the contamination is not in the State Cleanup Program; and
- Eliminates the requirement for KDHE to determine which environmental consulting companies are qualified to prepare environmental assessments for the Voluntary Cleanup Program.

FINANCIAL INSTITUTIONS

Kansas Banking Code—Recodification; Statutory Fees; Inclusion of Special Orders; Reporting; SB 240

SB 240 recodifies the Kansas Banking Code (Chapter 9, *Kansas Statutes Annotated*) and also amends two statutes where provisions of the Banking Code are referenced. As part of the recodification, the bill adds 18 previously issued Special Orders of the Bank Commissioner to existing or new statutes and repeals 56 statutes. Of the 56 statutes repealed, 36 are recodified into existing or new statutes with the bill.

Organization of the Banking Code

The Banking Code is composed of 209 statutes and is organized into the articles referenced below:

- Article 5, Miscellaneous Provisions (includes Kansas Money Transmitter Act and Bank Holding Company law);
- Article 7, Definitions;
- Article 8, Organization;
- Article 9, Capital Stock and Structure;
- Article 11, Powers;
- Article 12, Transactions;
- Article 13, Deposit Insurance and Bonds;
- Article 14, Deposit of Public Moneys;
- Article 15, Safe Deposit Box Rental;
- Article 16, Trust Authority;
- Article 17, Supervision; Commissioner;
- Article 18, Supervision; Board;
- Article 19, Dissolution; Insolvency;
- Article 20, Crimes and Punishments;
- Article 21, Trust Companies; and

- Article 22, Mortgage Business.

The following is a summary of the substantive new or modified provisions that are included in this recodification of the Banking Code.

New Sections Incorporated into the Banking Code

The bill adds law relating to allowing Kansas banks to pledge assets to secure certain deposits in out-of-state branches, informal agreements, consent orders, the crime of obstructing an investigation or examination, establishing fees in statute and providing when the Commissioner can change or waive fees, and allowing banks to pledge to secure funds of federally recognized Indian tribes. More specifically, the bill will:

- Permit state-chartered banks to pledge assets to secure the deposits of public funds in other states where the Kansas bank has branches (codify Special Order 1997-3);
- Authorize the Commissioner to enter into an informal agreement with a bank or trust company for a plan of action to address possible safety or soundness concerns, violations of the law, or any weakness displayed by the bank or trust company when specified circumstances exist;
- Authorize the Commissioner to enter into a consent order at any time with a bank, trust company, any executive officer, director, employee, agent, or other person;
- Create a new crime, providing it will be unlawful for any director, officer, employee, or agent of a bank or trust company to alter, destroy, shred, mutilate, conceal, cover up, or falsify any record with the intent to impede, obstruct, impair, or influence any examination, investigation, or proceeding by the Commissioner. Persons violating this provision will, upon conviction, be guilty of a severity level 8, nonperson felony;
- Establish nonrefundable application fees, including those for bank or trust company charters, change of control, conversion to state charter, and certain fiduciary activities. The Commissioner is allowed to adopt rules and regulations to change the amount of the fees established under the bill to an amount not to exceed 150 percent of any such fee. Additionally, the Commissioner is authorized to waive any fee. The bill provides that applicants may be required to pay additional costs associated with an examination or investigation, should the Commissioner determine an on-site examination is necessary.

The bill permits the Commissioner to adopt rules and regulations relating to the provisions of this section and requires the Commissioner, within the first two weeks of each legislative session, to submit to the House and Senate appropriations and budget subcommittees, a written summary of any rules and regulations adopted.

Note: The fees, with the exception of fees established for conversion (currently, no fee charged) and out-of-state trust facilities, have been prescribed by agency rules and regulations (KAR 17-22-1). Fees associated with a new bank branch and relocation of a branch bank or main office are increased from the amount specified in rules and regulations of \$750 to \$1,000).

- Authorize banks to pledge to secure funds of federally recognized Indian tribes (codify Special Order 1999-1).

The bill recodifies and adds law to establish a fee on applicants under Article 8 of the Banking Code (*i.e.*, new charters, conversion, change of name, and relocation) to defray the expenses of the State Banking Board, Commissioner, or other designees in the examination and investigation of an application. (Before, rules and regulations stated applicants must pay additional costs if the Commissioner determines an on-site exam is necessary.) Pursuant to continuing law, the fees will be deposited into a fund for investigations and examination (termed “bank investigation fund” under the bill) and must be used for the payment of examination expenses. Any unused funds must then be transferred to the Bank Commissioner Fee Fund.

The bill recodifies existing statutes, shown as new law and described below, relating to authorization of the Commissioner to temporarily close or relocate banks and trust companies in the event of an emergency, outline voluntary liquidation procedures, prohibit relocation without approval and notification criteria met, and grant authority for the State Banking Board to approve banker’s banks:

- Allows the Commissioner to temporarily close banks and trust companies in an affected area, by proclamation, in the event of an emergency. The bill further outlines the criteria and posting of notice for closure and, if approved, temporary relocation of such institutions;
- Allows a bank, through a specified vote and approval of a liquidation plan, to liquidate by paying in full all of its depositors and creditors. Such bank is required to file its liquidation plan with the Commissioner. The bill grants the Commissioner authority to examine the bank or compel the bank to file reports during the time it is being liquidated. The bill further provides authorization for the Commissioner to appoint a receiver and the procedure associated with the completion of the liquidation of a bank;
- Provides that, upon the approval of the Commissioner, the board of directors of a bank in the process of voluntary liquidation may borrow an amount not to exceed 100 percent of the bank’s total deposit liabilities and may pledge the bank’s assets;
- Permits, as part of the approved liquidation plan, any bank to sell all or any part of the bank’s assets to any other bank, either state or national, and allow the bank to receive in payment cash, shares of stock in the purchasing bank, or both;
- Prohibits a bank or trust company from changing its place of business from one city or town to another without prior approval. The bill specifies notification procedures and authorizes the Commissioner to examine and investigate the application. One factor to be considered in the approval would be that the

selected name for the bank is not the name of any other bank doing business in the same city or town and is not used within a 15-mile radius of the proposed location; and

- Grants authority to the State Banking Board to approve the application for the organization of a “banker’s bank.”

Amendments to Existing Statutes

The bill makes a number of technical, clarifying, grammatical, and organizational changes. Following is a summation of substantive amendments to the Banking Code (statutory article specified).

Bank Holding Companies

The bill updates the definition of “bank holding company” and specifies when, in addition to methods in continuing law, a company may become a holding company. Under the bill, any company, with the prior approval of the Commissioner, by virtue of acquisition of ownership or control of, or the power to vote the voting shares of, a bank or another company, may become a holding company. Additionally, the bill removes some of the required information and documentation to be filed with an application. The bill also restates an applicant’s rights associated with the denial of an application and also clarifies that a bank holding company applicant may be required to supplement its application with information required for a change of control application. **(Article 5)**

Definitions

The bill updates terms and eliminates terms no longer applicable to the Banking Code. **(Article 7)**

Organization of Banks and Trust Companies

The bill reorganizes a statute pertaining to the organization or incorporation of a bank or trust company by inserting application requirements and provisions allowing further review of an applicant. The bill also inserts provisions regarding lapsed articles of incorporation into another statute pertaining to the lapse, renewal, or extension of a bank’s corporate existence.

The bill also specifies that the full amount of common stock, including the surplus and undivided profits, must be subscribed by a new bank or trust company prior to its filing of the articles of incorporation with the Kansas Secretary of State’s office. The bill amends a provision relating to conversion to a state bank to create a restriction on the naming of the bank. The bill also amends a provision governing conversion of a state bank to a national bank by requiring the state bank to provide a copy of its application to the Office of the Comptroller of the Currency (OCC, regulates national banks) and written notice of the OCC’s approval for the bank to convert. The bill details the process associated with the name change of banks and trust companies, including notification requirements. **(Article 8)**

Capital Stock and Structure—Increase Capital Minimums, Other Amendments

The bill increases the required minimum capital amounts for banks and trust companies organized on or after July 1, 2015. Under the bill, the required minimum capital at the time of the bank organization must be the greater of \$3,000,000 or, as stated in continuing law, an amount equal to 8 percent of the proposed bank's estimated deposits five years after organization (the minimum capital specified had been an amount of at least \$250,000; the increased minimum capital requirement also applies to banks that relocate). For trust companies, the bill increases the minimum capital requirement from \$250,000 to \$500,000. Additionally, all banks are required to maintain a capital ratio of at least 5 percent of equity capital to total assets at all times; this requirement also applies to banks at the time of conversion to a state charter. The bill also specifies when the minimum capital requirements do not apply and allows the Commissioner, in the Commissioner's discretion, to approve a relocation with a smaller equity capital amount under certain circumstances. The bill also grants authority to the Commissioner to require an amount of capital in excess of the required minimum and require banks failing to meet the minimum capital ratio to notify the Commissioner within three days. Upon notice, the Commissioner may require the bank to submit a written plan for restoring capital.

Additionally, the bill updates a provision relating to common and preferred stock of a bank or trust company to remove a limitation on the dollar increment for shares and clarifies the allowed swap of common stock or preferred stock would not be subject to requirements for a capital reduction and the new issue of preferred stock.

The bill also creates a definition for "impairment" and includes reference to the term in the statute pertaining to the impairment of a bank or trust company's capital stock. **(Article 9)**

Powers—Banks

The bill updates the general powers section of the Banking Code to include several previously issued Special Orders. The Special Orders that will be added to the general powers' section are SO 1975-2 (powers to operate postal substation); 1976-1 (power to invest in foreign bonds up to 1 percent of capital); 1987-1 (power to purchase investment company shares); 1988-4 (power to sell insurance with an extension of credit); 1990-2 (power to act as an insurance agent in cities with a population less than 5,000); 1990-3 (power to become a member of the Federal Home Loan Bank); 1992-1 (power to acquire stock of another institution, if incidental to a lawful reorganization); 1995-2 (power to loan money on the security of the stock of the parent company); 1995-6 (power to own subsidiary for managing investment portfolio); 1996-1 (power to establish a subsidiary for acquiring stock of another institution pursuant to lawful reorganization); 2000-1 (power to establish a subsidiary to engage in activity that is financial in nature); and 2002-2 (power to invest in the Federal Home Loan Bank).

Additionally, the bill updates provisions relating to the holding of real estate by a bank or trust company to clarify when holding periods start and allow for extensions of time for holding a parcel or real property; includes provisions for personal property; provides that a bank will be permitted to own all or part of the stock in a single trust company or safe deposit company organized under Kansas law; and provides that a bank can own all of the stock in a corporation or limited liability company (LLC) organized under Kansas law, owning real estate, all or a part of which is occupied or to be occupied by the bank or trust company. The bill further specifies that, with the prior approval of the Commissioner, a bank may exchange its participation interest in real estate acquired or purchased in satisfaction of any debt previously contracted for an interest in a corporation or LLC which would manage, market, and dispose of the property. The

bill sets forth criteria for the bank’s directors to complete prior to this exchange. (The power to exchange participation interest in property acquired by debt previously contracted created under the bill will codify Special Order 2010-1.)

The bill amends provisions relating to State Banking Board approval for non-eligible banks to branch. This approval is assigned to the Commissioner. The bill inserts provisions relating to and defining loan production activity at locations other than the place of business specified in the bank’s certificate of authority or approved branch banks. The bill also updates the definition of “remote service units” and clarifies the meaning of “online” and “offline” as the terms apply to the definition. The change to the definition of “remote service units” will allow banks to operate interactive teller machines (ITMs).

The bill also updates law governing unlawful transactions to include “related interests” in the listing of such transactions which had required prior approval of the Commissioner. The bill inserts provisions relating to unlawful preferences that had been stated in KSA 9-1113. The bill also amends provisions pertaining to the management and control of a bank or trust company to add a requirement of taking and subscribing to an oath for directors and related notification to the Commissioner following an election and a requirement, following the annual meeting, on banks and trust companies to submit a certified list of stockholders and the number of shares owned by each. Further, the bill specifies that minutes must be made of each directors’ meeting of a bank or trust company and actions that will be required to be recorded in such minutes. The bill also updates provisions relating to closure of a bank on a designated business day to include definitions and provisions relating to closure by proclamation (special observances and emergencies). [Emergency closures and temporary relocations provisions are generally addressed in continuing law, KSA 9-515 through 518.]

The bill also modifies a provision relating to the prohibition of establishing or maintaining a branch in Kansas on the premises or property of an affiliate engaged in commercial activities. **(Article 11)**

Transactions

The bill clarifies that the provisions of Article 12 in the Banking Code apply only to national and state chartered banks with a main office or branch in Kansas. The bill also makes clarifying amendments to a provision relating to payable-on-death accounts and incorporate provisions relating to vesting of the beneficiary’s interest. **(Article 12)**

Deposit Insurance

The bill updates provisions governing deposit insurance held by banks to remove a requirement that allows a bank to opt out of having Federal Deposit Insurance Corporation (FDIC) insurance. The statute is amended to permit state banks to purchase surety bond coverage for the purpose of insuring deposits in excess of the FDIC coverage limit (this amendment codifies Special Order 1993-1). The bill also amends a statute governing receivership and liquidation necessitated by a bank’s inability to meet the demands of its depositors to remove a requirement that the FDIC, in acting as a receiver or liquidator for a bank, obtain approval from the district court prior to a sale of assets. **(Article 13)**

Deposit of Public Moneys

The bill modifies the statute pertaining to the designation of a depository for public moneys to incorporate provisions relating to the written security agreement between banks and municipalities. The bill also reorganizes definitions applicable to Article 14 and inserts definitions for the terms “Kansas national bank” and “Kansas state bank.” **(Article 14)**

Safe Deposit Boxes

The bill removes a statement of policy on behalf of the State of Kansas and instead specifies banks, trust companies, and safe deposit corporations may maintain safe deposit boxes and rent the same for consideration. The bill also clarifies the relationship between what has been termed as the landlord (bank, trust company, safe deposit corporation) and tenant (user) of a safe deposit box and instead uses the terms “lessor” and “lessee.” The terms are then used throughout the article. The bill also provides a process for the disposal of the contents of a safe deposit box relating to a probate proceeding. The bill restates requirements about when and how a bank could open a safe deposit box upon failure of the lessee to pay rent or surrender the box after the leasing period ends. **(Article 15)**

Trust Departments—Authority

The bill modifies the application and approval process for a bank to conduct trust business in the state. The bill also clarifies and states permissible methods for the termination of a bank’s trust business – successor trustee as provided in the Uniform Trust Code or *via* contracting of the services. The bill updates a provision governing the control of a bank trust company to add directing the management or policies of the trust company. **(Article 16)**

Powers—Commissioner

The bill modifies the examination requirements specified in law to authorize the Commissioner to accept examination reports or any other reports on a state bank or trust company by the FDIC, Federal Reserve Bank, or the Consumer Financial Protection Bureau.

The bill inserts a provision relating to how a request for information associated with a requested report of a bank or trust is made. The bill also removes an authority of the Commissioner to revoke the authority of a bank or trust company to transact business in the event of a refusal of examination or investigation and instead specifies the administrative actions available to the Commissioner pursuant to KSA 9-1714, 9-1805, 9-1807, or 9-1809. The bill replaces language governing the willful refusal to be examined and the administrative remedy to provide due process for a bank or trust company. The bill clarifies when and how confidential information generated as part of an investigation or examination of a state bank or trust company will be shared.

The bill also increases the fine, from \$100 to \$1,000 for each day the violation occurs, associated with the willful violation of a prohibition on a felon serving as a director, officer, or employee of a bank. The bill amends the definition of “control” to add directing the management or policies of the trust company and update the process for change of control or merger transaction applications.

The bill updates a statute pertaining to mergers to account for modifications made to the change of control provisions and retains an exemption relating to national banks. The bill requires notification of the merger transaction and notice of publication in the community where the bank is located. **(Article 17)**

Powers—State Banking Board

The bill updates a statute pertaining to the removal of an officer or director to clarify the right to an administrative hearing and any action relating to the removal of such person or prohibition of further participation in any manner in the affairs of the state bank or trust company by the State Banking Board will be subject to review in accordance with the Kansas Judicial Review Act. **(Article 18)**

Dissolution; Insolvency

The bill replaces provisions governing the process for the dissolution of a bank's business as a corporation and references the voluntary liquidation process (for deposits of the bank) outlined in the bill. The bill also updates the criteria for a critically undercapitalized bank or trust company to clarify that intangibles cannot be included in the calculation of capital. The bill reorganizes and specifies the permitted options available to the Commissioner when, upon examination of a bank or trust company, the institution is found to be critically undercapitalized or insolvent. A new option granted to the Commissioner authorizes the Commissioner to enter into an informal memorandum to notify the bank or trust company of the unsafe and unsound condition and requires the bank or trust company to correct the condition within the time frame prescribed by the Commissioner.

The bill also modifies and clarifies provisions relating to the appointment of a receiver for a bank or trust company. The bill provides two methods for appointment of a receiver by the Commissioner – appointment of the FDIC and appointment of any individual, partnership, association, LLC or other business entity with relevant experience in the field of banking or trust. Receivers, other than the FDIC, are required to file in the district court. The bill also provides for an expedited due process procedure. The bill clarifies the FDIC will be excepted from the procedure associated with payments to creditors after receivership. The bill also deletes and restates the process for a bank or trust company to surrender complete control of all assets and property to the Commissioner. **(Article 19)**

Crimes and Punishments

The bill generally updates references to the classification of misdemeanors (e.g., specifying Class A, nonperson misdemeanors). The bill updates a provision regarding the making of a false report to account for filing of electronic information. The bill also excepts the FDIC from a provision governing violations by a receiver. The bill eliminates a provision pertaining to embezzlement and instead provides it is unlawful to injure, defraud, or deceive a bank or trust company for personal gain and use such entity's name for such gain.

The bill also updates the severability clause provided in Article 20 to specify the Banking Code. **(Article 20)**

Trust Companies

The bill updates provisions relating to the authority of trusts authorized to receive deposits to make a more broad reference to the Banking Code. The bill also addresses the liability of stockholders in a trust company to specify that the owners of stock be the persons deemed liable, not the persons holding trust company stock in another capacity. The bill allows either the entity holding the stock or person pledging stock as collateral security to vote as the shareholder, depending on the arrangement made.

The bill addresses the naming of trust service offices and provides limitations on the selection of and notification about the name. The bill also establishes the authority to charge a fee on applicants. **(Article 21)**

Updates to Other Laws

The bill amends a provision in employment law pertaining to pay periods and payment methods to revise the definition of “payroll card” by removing reference to KSA 9-1111d. The bill also amends the statute governing eligibility requirements for assistance to delete reference to KSA 9-1216. (Under the bill, this statute is incorporated into KSA 9-1215.)

Repealed Statutes

In addition to the 36 statutes that are recodified into new or existing statutes, 20 additional statutes are repealed with the enactment of the bill.

Financial Organizations—Kansas Money Transmitter Act and Kansas Mortgage Business Act Amendments; ITMs; and Kansas ABLE Savings Program; HB 2216

HB 2216 makes several amendments to the Kansas Money Transmitter Act (KMTA); amends the Kansas Mortgage Business Act (KMBA) to create an exclusion for certain liens in the definition of “mortgage loan”; amends a provision governing branch banking and authorized transactions by remote service units in the Kansas Banking Code to update the definition of “remote service units”; and enacts new law to establish the Kansas ABLE (Achieving a Better Life Experience) Savings Program.

KMTA—Amendments

The bill makes several amendments to the KMTA, including updates to the definition of “agent” and licensure requirements associated with the relationship between an agent and licensee, replacing the definition of “outstanding payment instrument” with “outstanding payment liability” to create a distinction between payment instruments and money transmission considered to be outstanding, and providing the Bank Commissioner (Commissioner) with authority to increase the required amount of surety on a licensee. Amendments to the KMTA are described below.

Definitions

The bill updates the definition of “agent” to mean “a person designated by a licensee to receive funds from a Kansas resident in order to forward such funds to the licensee to effectuate money transmission at one or more physical locations throughout the state or through the internet, regardless of whether such person would be exempt from the Act by conducting money transmission on such person’s own behalf.”

The bill replaces the term “outstanding payment instrument” with “outstanding payment liability,” which is defined to mean:

- With respect to a payment instrument, any payment instrument issued or sold by the licensee that has been sold in the United States directly by the licensee, or any payment instrument that has been sold by an agent of the licensee in the United States which has been reported to the licensee as having been sold and which has not been paid yet by or for the licensee; and
- With respect to the transmission of money or monetary value, any money or monetary value the licensee or agent of the licensee has received from a customer in the United States for transmission which has not yet been delivered to the recipient or otherwise paid by the licensee.

The bill also amends permissible investment provisions in the KMTA to make updates consistent with the new term “outstanding payment liability.”

Surety Requirements

The bill amends surety requirements for licensure applicants. The bill retains the requirement that any applicant must maintain cash or securities of at least \$200,000. The Commissioner has been permitted to increase the required cash and securities up to \$500,000. Under the bill, the Commissioner could increase this requirement for surety to a maximum of \$1,000,000. The Commissioner will be required to base this decision on the following factors: the volume of money transmission business transacted in the state, or the impaired financial condition of a licensee as evidenced by a reduction in net worth or financial losses.

Prior Approval—Appointment of Certain Agents Not Physically Located in Kansas; Exempt Entities

The bill modifies agent licensure requirements to specify a licensee must obtain prior approval from the Commissioner to designate an agent that conducts money transmission business through the internet without a physical location in Kansas. The bill also provides that a person acting as an agent for an exempt entity or any other person accepting funds for transmission through an exempt entity is a money transmitter and subject to the KMTA.

Exemptions from KMTA Provisions

The bill exempts certain service providers from the provisions of the KMTA. Under continuing law, banks, building and loan associations, savings and loan associations, savings

banks or credit unions, the federal government and its agencies, and the State of Kansas and its agencies are exempted from the provisions. Service providers exempted by the bill are those providers that:

- By written agreement with the exempt entities specified in law (*i.e.*, banks, credit unions, governments, and government agencies), provide for receipt and delivery of funds, network access, processing, clearance, or settlement services in support of money transmission activities; and
- Allow the state or federal regulators with regulatory jurisdiction over the exempt entity to examine and inspect the applicable records, books, and transactions relating to the service provider.

The bill also deletes reference to building and loan associations in this exemption.

Additional Requirements

The bill requires audited and interim financial statements associated with the filing of an application to be prepared in accordance with the United States Generally Accepted Accounting Principles (GAAP) or in any other form accepted by the Commissioner.

The bill also permits the Commissioner to require any person operating in accordance with the provisions of the KMTA to maintain documents and records, as necessary, to verify compliance with the Act or any other applicable state or federal law or regulation.

The bill authorizes the Commissioner to take administrative action on a licensee to modify one existing finding and create a new finding related to the refusal or failure to provide, after a reasonable time, any information necessary to approve or renew a license.

KMBA—Amendments

The bill amends the KMBA to create an exclusion for certain liens in the definition of “mortgage loan.” This definition is modified by the bill to exclude “liens of contractors” (also known as contractor’s liens), as defined in Chapter 60 of the *Kansas Statutes Annotated*.

The bill also makes technical changes, including an updated reference to the federal Truth in Lending Act.

Kansas Banking Code—ITMs

The bill amends a provision governing branch banking and authorized transactions by remote service units in the Kansas Banking Code to update the definition of “remote service units” and clarify the meaning of “online” and “offline” as the terms apply to the definition. The change to the definition of “remote service units” will allow banks to operate interactive teller machines (ITMs).

Under the bill, a “remote service unit” means “an electronic information processing device, including associated equipment, structures, and systems, through or by means of which

information relating to financial services rendered to the public is stored and transmitted to a bank and which, for activation and account access, is dependent upon the use of a machine-readable instrument in the possession and control of the holder of an account with a bank or is activated by a person upon verifiable personal identification.” The bill further specifies that this term must include “online” computer terminals that may be equipped with a telephone or televideo device that allows contact with bank personnel and “offline” automated cash dispensing machines and automated teller machines.

Kansas ABLE Savings Program

The bill establishes the Kansas ABLE Savings Program (program), an enabling tax-deferred savings program authorized by the passage of the federal ABLE Act, for the purpose of empowering individuals with disabilities and their families to save private funds to support the individuals with disability and to provide guidelines for the maintenance of such accounts. The State Treasurer (Treasurer) will implement and administer the program. Additional program details follow.

Definitions

Several terms are defined in the bill, including “financial organization”; “conservator” and “guardian” (both as defined in KSA 59-3050 *et seq.*); and “qualified disability expenses,” referring to those disability expenses included in § 529A of the federal Internal Revenue Code of 1986, as amended. The additional terms defined include:

- “Account owner” refers to the person who enters into an ABLE savings agreement, and who also is the designated beneficiary;
- “Designated beneficiary” means a Kansas resident whose “qualified disability expenses” may be paid from the account, and who must be an eligible individual at the time the account is established;
- “Eligible individual” for an account refers to an individual entitled to benefits based on blindness or disability that occurred before such individual attained the age of 26, or an individual who filed a disability certification, to the satisfaction of the Secretary of the U.S. Treasury (Secretary), with the Secretary for such taxable year;
- “Management contract” refers to the contract executed by the Treasurer and a financial organization selected to act as a depository and manager of the program; and
- “Savings agreement” is an agreement between the program manager or the Treasurer and the account owner.

Duties and Responsibilities of the Treasurer

The Treasurer will implement and administer the program. Duties include making changes to the program required for the participants to receive the federal income tax benefits or treatment under § 529A, as amended; establishing methods for disbursement of funds held in accounts and for the allocation of funds for administrative costs; promulgating rules and regulations to effectuate the provisions of the program; making an annual evaluation of the program and preparing an annual report of such evaluation to be provided to the Governor, the Senate, and the House of Representatives; and notifying the Secretary when an ABLE account is opened and submitting reports concerning the program required by the Secretary.

The Treasurer is authorized to enter into agreements with other states to either allow Kansas residents to participate in a plan operated by another state or to allow residents of other states to participate in the Kansas program.

Program Implementation

The Treasurer is authorized to implement the program through the use of financial organizations as account depositories and managers and to solicit proposals from financial organizations to act as depositories and managers. The financial organizations submitting proposals will be required to describe the investment instruments held in accounts.

The Treasurer is permitted to select more than one financial organization or investment instrument for the program. The Treasurer will be required to select the financial organization demonstrating the most advantageous combination, both to potential participants and the state, of eight factors set out in the bill.

Minimum Required Contract Terms

The Treasurer is authorized to enter into any contracts with a financial organization needed to put into effect the provisions of the program. The bill establishes the minimum required management contract terms to be performed by the financial organization. These terms will require a financial organization to take action to ensure compliance with program requirements and actions not contrary to managing the program as a qualified ABLE program under § 529A; provide adequate records, keep accounts segregated, and provide the Treasurer with the information necessary to prepare statutorily required statements; provide the Treasurer access to the books and records of the program manager to the extent needed to determine compliance with the contract, the program, and § 529A; hold accounts for the benefit for account owners; have independent audits performed at least annually and provide the audit results to the Treasurer; provide the Treasurer with copies of all regulatory filings and reports during the term of the management contract or while holding any accounts (other than confidential filings and reports that do not become part of the program) and make available to the Treasurer the results of any periodic examination of such manager by any state or federal banking, insurance, or securities commission, except those reports that may not be disclosed under law; and ensure any description of the program in any media form is consistent with the developed marketing plan.

Authorized Actions by the Treasurer

The Treasurer is authorized to do the following:

- Enter into any contracts necessary and proper for program implementation;
- Require an audit of the operations and financial position of the program depository and manager, if the Treasurer has reason to be concerned about the financial position, the record-keeping practices, or the status of accounts; and
- Terminate or not renew a management agreement and, upon termination or non-renewal, take custody of accounts and seek prompt transfer of the accounts to another selected program manager or depository and into investment instruments as similar as possible to the original instruments.

The bill allows the Treasurer, the Department for Children and Families, the Department of Health and Environment, and the Department for Aging and Disability Services to exchange data regarding eligible individuals to carry out the purpose of this act.

ABLE Account Requirements

An ABLE account could be opened by a designated beneficiary, or a conservator or guardian of a designated beneficiary who lacks capacity to enter into a contract, and each beneficiary is allowed to have only one account. A non-refundable application fee could be established by the Treasurer. The account application will be in the form prescribed by the Treasurer and contain the required information specified in the bill.

Contribution Conditions

After an ABLE savings account is opened, any person will be allowed to make contributions, subject to § 529A limitations or rules and regulations promulgated by the Secretary pursuant to this act. Only cash contributions will be permitted.

The Treasurer or program manager is required to reject or promptly withdraw contributions in excess of the established limits, or the total contributions if:

- The value of the account is equal to or greater than the account maximum established by the Treasurer (equal to the account maximum for post-secondary education savings accounts established pursuant to KSA 75-640 *et seq.*, and amendments thereto); or
- The designated beneficiary is not an eligible individual in the current calendar year.

Account Owner Options

The bill allows the account owner to change the designated beneficiary of an account to a member of the family of the prior designated beneficiary, according to procedures established by the Treasurer, and to transfer all or a portion of an account to another ABLE savings account for a designated beneficiary who is a member of the family as defined by § 529A. An account owner will not be allowed to use an interest in an account as a security for a loan, and any such pledge would have no force and effect.

Reporting Requirements

Any distribution from an account to any individual or for the benefit of any individual during a calendar year would have to be reported to the federal Internal Revenue Service, each account owner, and the designated beneficiary or the distributee as required by state or federal law.

The bill requires an account owner to be provided at least 4 statements each year within 30 days after the end of the 3-month period to which a statement relates. The information that will need to be included in the statements is outlined in the bill. Statements and information relating to these accounts will have to be prepared and filed as required by this act and any other state or federal law.

Separate accounting for each designated beneficiary will be required, and an annual fee could be imposed on the account owner for maintenance of an account.

Treatment of Account Funds

Moneys in an ABLE account will be exempt from attachment, execution, or garnishment and could be claimed by the Kansas Medicaid plan only after the death of the designated beneficiary subject to limitations imposed by the Secretary.

Obligations Not Created

The Act will not obligate the Treasurer, the State, or any agency or instrumentality of the State to guarantee the return of principal, the rate of interest or other return on any account, or the payment of interest or other return on any account for the benefit of an account owner or designated beneficiary. The Treasurer is authorized to promulgate rules and regulations to clarify that documents used in connection with opening an account clearly indicate the account is not insured by the State and the principal deposited and the investment return are not guaranteed by the State.

Kansas ABLE Savings Program Trust and Savings Expense Funds Established

The bill establishes the Kansas ABLE Savings Program Trust Fund in the State Treasury. If the Treasurer decides to accept deposits from contributors, instead of having the deposits sent directly to the program manager, the funds will be deposited in the trust fund. All interest derived from the deposit and investment of moneys in the savings trust fund will be credited to the fund. All unexpended and unencumbered moneys in the trust fund at the end of

any fiscal year will remain in the trust fund and not be credited or transferred to the State General Fund (SGF), or to any other fund.

Additionally, the Kansas ABLE Savings Expense Fund is established in the State Treasury, consisting of moneys received from the ABLE savings program manager, or any governmental or private grants, and any SGF appropriations for the program. All expenses incurred by the Treasurer in developing and administering the program will be payable from this expense fund.

Municipal Indebtedness Reporting Requirements; Temporary Notes; Bonds and Warrants Law; HB 2259

HB 2259 amends provisions relating to municipal indebtedness reporting requirements and temporary notes in the bonds and warrants law.

Municipal Indebtedness Reporting

The bill changes reporting deadlines for county and municipal clerks to gather and report indebtedness figures relating to the Kansas Indebtedness Report and requires the State Treasurer to publish this information online.

Individual clerks of each municipality have been required to annually report debt information to the county clerk by July 5 of each year. The county clerk has then been required to consolidate the information and report to the Bond Services Department of the State Treasurer's Office by July 15 of each year. The bill changes the deadline for municipal clerks from July 5 to July 31 each year, and changes the deadline for the county clerk to compile and report the information to the State Treasurer from July 15 to August 15 each year.

Additionally, the bill requires the State Treasurer to, on or before September 30 of each year, make the information on the statements available on the State Treasurer's website.

Municipal Finance and Temporary Notes

The bill amends provisions in the general bond law relating to municipal finance and temporary notes. The bill removes the requirement that temporary notes, which are debt instruments used by municipalities for short-term financing, be confined to one sheet of paper.

The bill makes technical amendments to update and rephrase language used in the statutes.

HEALTH

Membership Changes to Governor's Behavioral Health Services Planning Council; Change in Membership and Meeting Days for the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight; Senate Sub. for HB 2042

Senate Sub. for HB 2042 changes the composition of the Governor's Behavioral Health Services Planning Council (Council) and changes the meeting days and membership makeup of the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight (Joint Committee).

Council. The bill increases the membership of the Council from 33 to 34 by adding the Governor's Tribal Liaison. The bill also removes from the Council's membership the Commissioner of the Juvenile Justice Authority, abolished in 2013, and inserts the Deputy Secretary of Juvenile Services of the Department of Corrections or the Deputy Secretary's designee.

Joint Committee. The bill changes the number of meeting days by specifying the meetings in the third and fourth calendar quarters are for two consecutive days in each quarter.

The bill removes the following membership appointments to the Joint Committee:

- One member of the House Committee on Appropriations appointed by the Chairperson of the House Committee on Appropriations;
- One member of the Senate Committee on Ways and Means appointed by the Chairperson of the Senate Committee on Ways and Means;
- One member of the House Committee on Appropriations appointed by the Ranking Minority Member of the House Committee on Appropriations;
- One member of the Senate Committee on Ways and Means appointed by the Ranking Minority Member of the Senate Committee on Ways and Means; and
- One member of the House of Representatives appointed by the Majority Leader of the House of Representatives.

The bill replaces the membership appointments removed with the following appointed members to the Joint Committee:

- Two members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom is a member of the House Committee on Appropriations;
- One member of the House of Representatives appointed by the Minority Leader of the House of Representatives; and
- Two members of the Senate appointed by the President of the Senate, one of whom is a member of the Senate Committee on Ways and Means.

Joint Committee membership remains at 11 members.

**Authorization for Criminal Background Checks by the Kansas Department for Aging and
Disability Services; Technical Amendments Related to ERO No. 41; Exclusion of
Certain Programs for All-Inclusive Care for the Elderly from the Adult Care Home
Licensure Act; Senate Sub. for HB 2043**

Senate Sub. for HB 2043 changes the definition of “secretary,” to allow the Secretary for Aging and Disability Services to request criminal background information from the Kansas Bureau of Investigation for determining eligibility for employment, initial and continuing, or for participation in programs involving vulnerable children or adults administered by the Kansas Department for Aging and Disability Services (KDADS) since 2012 Executive Reorganization Order (ERO) No. 41 became effective. The bill makes technical amendments to update KDADS statutory and agency references related to ERO No. 41.

Additionally, the bill excludes from the statutory definition of the term “adult care home” any center approved by the Centers for Medicare and Medicaid Services as a Program for All-Inclusive Care for the Elderly (PACE), which provides services only to PACE participants. The bill exempts those PACE programs from the requirements, standards, and rules and regulations established under the Adult Care Home Licensure Act.

**Smoking Ban—Clinical Research Exemption; Tobacco Master Settlement Agreement;
Senate Sub. for HB 2124**

Senate Sub. for HB 2124 amends the statute prohibiting smoking in an enclosed area or at a public meeting to add an exemption for a separately ventilated portion of a medical or clinical research facility used exclusively for clinical research activities conducted in accordance with U.S. or Kansas regulations.

The bill also amends various statutes in the chapter governing requirements for sale of cigarettes related to the Master Settlement Agreement (MSA) and escrow funds for nonparticipating tobacco product manufacturers, as detailed below.

The bill amends the definition of “units sold” and adds definitions for “Indian tribe” and “qualified tribal land.”

The bill expands a provision prohibiting persons from selling, offering, possessing for sale, or importing cigarettes of a tobacco product manufacturer (manufacturer) brand family not included in the directory of manufacturers and brand families required by the chapter, by eliminating a requirement that such cigarettes be for personal consumption in the state.

The Attorney General is allowed to remove a manufacturer or brand family from the directory if the Attorney General concludes the manufacturer or certain affiliates, officers, or directors have pleaded guilty or *nolo contendere* to, or have been found guilty of, a felony related to the sale or taxation of cigarettes or tobacco products, or if the manufacturer and its brand families have been removed from the directory of another state for acts or omissions that would be the basis for removal in Kansas, unless the removal in another state was without due process. A manufacturer removed from the directory will be eligible for relisting upon curing the violation or being reinstated to the other state’s directory. A nonparticipating manufacturer deemed an elevated risk may be required to post a bond for reinstatement.

The annual certification nonparticipating manufacturers are required to provide is amended to include information regarding certain stamping agents, wholesalers, and distributors involved in the sale or purchase or who receive the manufacturer's cigarettes and a declaration that all sales or shipments made by the manufacturer and affiliates are made to a stamping agent, wholesaler, distributor, or retailer that is licensed in Kansas.

The bill adds a requirement that, to be listed and have brand families listed in the directory, a manufacturer must certify annually that it has a federal manufacturer permit and is in compliance with federal reporting and registration requirements and must pay an annual \$500 directory fee to the Attorney General, to be deposited in the Tobacco Master Settlement Agreement Compliance Fund.

An existing provision requiring invoices and documentation of sales of all nonparticipating manufacturer cigarettes be made available to the Director of Taxation upon request is amended to allow the Attorney General also to request this information. The Attorney General also is added to the Department of Revenue as an entity authorized to promulgate rules and regulations regarding units sold.

The bill amends the statute governing disclosure of information to allow the Director and the Attorney General to share specified information with federal, state, or local agencies for the purpose of enforcement of other states' laws or with a court, arbitrator, data clearinghouse, or similar entity to assess compliance with or make calculations under the MSA, or with counsel for the parties or expert witnesses in a related proceeding. The bill requires the information remain confidential. A specific confidentiality provision regarding tobacco sales data is added and will expire on July 1, 2020, unless reviewed by the Legislature prior to that date.

Criminal penalties for selling, distributing, acquiring, holding, owning, possessing, transporting, or importing cigarettes in violation of the chapter are increased from a class B misdemeanor, as follows:

- Upon a first conviction, a class A misdemeanor with a sentence of up to one year in confinement and a fine of \$1,000 to \$2,500;
- Upon a second conviction, a severity level 9 nonperson felony and a fine of \$10,000 to \$100,000; and
- Upon a third or subsequent conviction, a severity level 9 nonperson felony and a fine of \$50,000 to \$100,000.

Such penalties are cumulative to remedies or penalties, including civil penalties, provided under other Kansas laws.

Finally, a statute in the chapter governing the Department of Revenue is amended to allow the Secretary of Revenue or designee to share confidential information with the Attorney General for the purposes of determining compliance with or enforcing the MSA statutes, the MSA, and all related agreements. Similar confidentiality provisions to those added to the MSA statutes, as described above, are also be added here.

Medicaid Drug Utilization Review Board; Donor Human Breast Milk; Senate Sub. for HB 2149

Senate Sub. for HB 2149 requires the Kansas Department of Health and Environment (KDHE) to reimburse “medical care facilities,” as defined in the bill, for donor human breast milk (milk) provided to a recipient of medical assistance under the Kansas Program of Medical Assistance in certain situations.

The bill also amends the procedures regarding restrictions of patients’ access to any new prescription-only drug under the Kansas Medicaid Program and establishes meeting requirements for the Medicaid Drug Utilization Review Board (Board). Further, the bill allows prior authorization or other restrictions on medications used to treat mental illness to be imposed on Medicaid recipients for medications subject to guidelines developed by the Board in accordance with provisions of the bill; establishes instances not to be construed as restrictions; provides for the development of guidelines; establishes requirements for Board review of medications used to treat mental illness available for use before and after July 1, 2015; and creates a Mental Health Medication Advisory Committee (Committee), outlining Committee membership and appointments, meeting frequency, and member compensation.

Reimbursement for Prescribed Human Breast Milk

Reimbursement is required for prescribed milk provided to infant recipients of medical assistance if the infant is under three months of age, critically ill, and in the neonatal intensive care unit of a hospital as long as the following conditions are met:

- The milk was ordered by a person licensed to practice medicine and surgery;
- KDHE determined the milk was medically necessary for the infant;
- An informed consent form indicating the risks and benefits of using banked milk was signed and dated by the infant’s parent or legal guardian; and
- The milk was obtained from a milk bank that meets the quality requirements established by KDHE.

The KDHE is required to utilize an electronic prior authorization system that uses the best medical evidence and care and treatment guidelines consistent with national standards to determine medical necessity. In addition, the KDHE is required to promulgate rules and regulations deemed necessary to administer the provisions regarding reimbursement for prescribed milk prior to July 1, 2016.

Access to New Prescription-only Drugs under the Kansas Medicaid Program

The Secretary of Health and Environment (Secretary) is allowed to implement prior authorization of any new prescription-only drugs until such drugs are reviewed by the Board at its next scheduled meeting. During the period before the new drugs are reviewed by the Board, the drugs are approved for use as indicated in package insert guidelines approved by the federal Food and Drug Administration and clinically reputable compendia, as approved by the Secretary.

Under prior law, the Secretary was prohibited from restricting patient access to prescription-only drugs through a program of prior authorization or a restrictive formulary, except by rules and regulations. The requirement that these proposed rules and regulations be submitted to the Board for written comment is eliminated.

Board Meeting Requirements

The Board is required to meet at least quarterly. The meetings are open to the public and provide an opportunity for public comments. The Board is required to post notice of its meetings at least 14 business days before any scheduled meeting.

Prior Authorization or Other Restrictions on Mental Health Medications for Medicaid Recipients

The bill provides no requirements for prior authorization or other restrictions on medications used to treat mental illnesses may be imposed on Medicaid recipients, except on medications subject to guidelines developed by the Board in accordance with provisions of the bill.

Prior law prohibited requirements for prior authorization or other restrictions on medications used to treat individuals with mental illnesses who are Medicaid recipients. Medications in the previous statute available without prior authorization or other restrictions included atypical medications, conventional antipsychotic medications, and other medications used for the treatment of mental illness.

The bill specifies the following are not to be construed as restrictions:

- Any alert to a pharmacist that does not deny the claim and can be overridden by the pharmacist;
- Prescriber education activities; or
- Consolidation of dosing regimens to equivalent doses.

Adoption of Guidelines and Medication Review

The Committee is required to provide the Board with recommendations for the development of guidelines. With regard to the recommendations from the Committee, the Board has the following options:

- Accept the recommendations in whole, to become effective immediately upon approval; or
- Reject the recommendations in whole, requiring referral back to the Committee for further consideration.

The Board is prohibited from adopting medication guidelines related to mental health medications without recommendations made by the Committee.

Prior to July 1, 2016, the Board is required to review all medications used to treat mental illness available for use on July 1, 2015. The Board is required to review all medications used to treat mental illness that do not exist on July 1, 2015, but are later developed or believed to be effective in the treatment of mental illness within six months of presentation to the Board.

Committee Appointment, Meetings, and Compensation

The bill creates the Committee, with members appointed by the Secretary. Committee membership is as follows:

- The Secretary or Secretary's designee, to serve as chairperson;
- Four persons licensed to practice medicine and surgery with board certification in psychiatry:
 - Two nominated by the Kansas Psychiatric Society, with one specializing in geriatric mental health; and
 - Two nominated by the Association of Community Mental Health Centers of Kansas, with one specializing in pediatric mental health;
- Two pharmacists nominated by the Kansas Pharmacy Association;
- One person licensed to practice medicine and surgery nominated by the Kansas Medical Society; and
- One advanced practice registered nurse engaged in a role of mental health nominated by the Kansas State Nurses Association.

Nominating bodies provide two nominees for each position for which they provide nominations to the Secretary, who selects the appointee from the provided nominees.

The Committee meets upon the request of the Committee chairperson, but at least once each quarter. Committee members receive compensation and expenses as provided in KSA 75-3223. Mileage and all other applicable expenses are paid to members attending Committee meetings if such expenses are consistent with policies established by the Secretary.

Medical Retainer Agreement and Amendments to the Kansas Healing Arts Act, Physician Assistant Licensure Act, Kansas Pharmacy Act, Controlled Substances Act, and Do Not Resuscitate Directives Act; Senate Sub. for HB 2225

Senate Sub. for HB 2225 specifies a medical retainer agreement is not insurance and is not subject to insurance provisions in Chapter 40 of the Kansas statutes. The bill also amends the Kansas Healing Arts Act, the Physician Assistant Licensure Act, the Kansas Pharmacy Act, the Controlled Substances Act, and the Do Not Resuscitate Directives Act, and it includes technical amendments to such Acts.

Medical Retainer Agreement

A health care provider is not required to obtain a certificate of authority or license under Chapter 40 to market, sell, or offer to sell a medical retainer agreement.

The bill defines the following:

- “Health care provider” to mean a person licensed under the Healing Arts Act;
- “Medical retainer agreement” to mean a contract between a health care provider and an individual patient in which the health care provider agrees to provide to the patient routine health care services for an agreed-upon fee and period of time; and
- “Routine health care service” to mean only the following:
 - Screening, assessment, diagnosis, and treatment for the purpose of promotion of health or the detection and management of disease or injury;
 - Medical supplies and prescription drugs that are dispensed in a health care provider’s office or facility site; and
 - Laboratory work including routine blood screening or routine pathology screening performed by a laboratory meeting certain requirements.

The bill states the requirements of a medical retainer, as follows:

- Be in writing;
- Be signed by the health care provider and the individual patient;
- Allow either party to terminate the agreement upon written notice;
- Describe and quantify the routine health care services;
- Specify the fee for the agreement;
- Specify the period of time under the agreement;
- Prominently state the agreement is not health insurance;
- Prohibit the health care provider and the patient from billing an insurer or other third-party payer for the services provided under the agreement; and
- Prominently state in writing the patient must pay the health care provider for all services not covered under the agreement and not otherwise covered by insurance.

The bill requires the following provision to be prominently stated in writing, in boldface type in 10-point font or larger, all words capitalized, on the front page of the medical retainer, and requires the patient or patient's legal representative to initial below the provision:

Notice: This Medical Retainer Agreement does not constitute insurance, is not a medical plan that provides health insurance coverage for purposes of the Federal Patient Protection and Affordable Care Act and covers only limited routine health care services as designated in this agreement.

Healing Arts Act

Licenses and Fees

The bill adds the term "active" to "reentry license" to clarify a reentry license must be a reentry active license. A reentry active license is subject to continuing education requirements and licensure fees. The bill also creates a "resident active license."

Resident Active License

Under the bill, a resident active license is created and can be issued to a person who makes written application; remits the required fee; has successfully completed at least one year of approved postgraduate training; is engaged in a full-time, approved postgraduate training program; and has passed the examinations for licensure. The Board of Healing Arts (Board) is required to adopt rules and regulations regarding issuance, maintenance, and renewal of the license. A resident active licensee is entitled to all privileges attendant to the branch of the healing arts for which such license is used.

A statutory cap of \$500 on fees for reinstatement of a canceled license, for a reentry active license or renewal of a reentry active license, and for a resident active license is created.

Patient Records

The bill defines the following terms:

- "Health care provider" to mean any person licensed by the Board;
- "Authorized representative" to mean the person designated in writing by the patient to obtain the health care records on behalf of the patient or the person otherwise authorized by law to obtain the health care records of the patient; and
- "Authorization" to mean a written or printed document signed by a patient or a patient's authorized representative containing:
 - A description of the health care records a provider is authorized to produce;
 - The patient's name, address, and date of birth;

- A designation of the person or entity authorized to obtain copies of the health care records;
- A date or event upon which the force of the authorization shall expire, not to exceed one year;
- If signed by a patient's authorized representative, the representative's name, address, telephone number, and relationship to the patient; and
- A statement declaring the right of the person signing the authorization to revoke it in writing.

The bill sets forth the requirements of health care providers to provide copies of patient records to the patient, patient's authorized representative, or other authorized person or entity within 30 days of receipt of the authorization. If the records are not available, the health care provider is required to notify the patient or the patient's authorized representative of the reasons the copies are not available.

The law requires a covered entity to provide a patient or patient's representative with access to the patient's health information; however, the bill requires a covered entity defined by the bill as a health care provider to furnish copies of health care records to a patient, a patient's authorized representative, or other person or entity authorized by law.

The bill also allows a provider to withhold requested records if the provider reasonably believes providing copies would cause substantial harm to the patient or another person. If a request is denied, a patient is authorized to file a claim against the provider to enforce the request. Upon a court finding the failure to comply with the request for records is without just cause or excuse, the court is required to award costs of the action and order production of the records at no expense to the prevailing party.

The bill requires charges for furnishing the records be established in rules and regulations. In establishing charges, the Board is required to consider the All-Items Consumer Price Index published by the U.S. Department of Labor.

The bill permits the Board to adopt rules and regulations requiring providers to furnish health care records to patients or their authorized representatives.

Special Permit

The bill expands the scope of the "special permit"—to include the practice of medicine and surgery—that may be issued by the Board to any person who has completed undergraduate training at the University of Kansas School of Medicine who has not yet commenced a full-time approved postgraduate training program. The holder of the special permit is allowed to be compensated by a supervising physician, but not allowed to charge patients a fee for services rendered; is not allowed to engage in private practice; is allowed to prescribe drugs, but not controlled substances; is required to clearly identify himself or herself as a physician in training; is not deemed to be rendering professional service as a health care provider for the purposes of professional liability insurance; is subject to all provisions of the Healing Arts Act, except as otherwise provided in the bill; and requires supervision by a physician who is physically present within the healthcare facility and is immediately available.

The special permit expires the day the holder of the permit becomes engaged in a full-time approved postgraduate training program or one year from issuance. The permit may be renewed one time. The Board is allowed to adopt rules and regulations to carry out the provisions related to the special permit holder.

Discipline

The bill eliminates private censure as a disciplinary option for Board licensees. The law states the Board may deny licensure in instances where a licensee had a license to practice the healing arts revoked, suspended, or limited in another jurisdiction. The bill eliminates providing a certified copy of the record of a disciplinary action of another jurisdiction as conclusive evidence thereof.

Definitions

The term “supervising physician” has the same meaning as set forth in the Physician Assistant Licensure Act.

Physician Assistant Licensure Act

Licenses and Fees

The bill creates a designation of “exempt license” and of “federally active license” and establishes a statutory cap on the fees, not more than \$150 and \$200 respectively, for such licenses.

Exempt License

The Board is allowed to issue an “exempt license” to a licensed physician assistant who makes written application, remits the required fee, and is not regularly engaged in physician assistant practice in Kansas and who does not hold himself or herself out publicly to be engaged in such practice. An exempt licensee is entitled to all privileges of a physician assistant and is subject to all provisions of the Physician Assistant Licensure Act. Continuing education requirements for this designation are to be established by rules and regulations adopted by the Board. The exempt license is eligible for renewal.

An exempt licensee is allowed to apply for an active license by filing a written application and remitting required fees for an active license. The requirements to be issued an active license vary depending on the time a person has held an exempt license. If a person has held an exempt license for more than two years, the testing, training, or education may be greater than for someone who has held the exempt license less than two years. The requirements may be established by rules and regulations adopted by the Board.

An exempt licensee is allowed to be a paid employee of a local health department or an indigent health care clinic.

Federally Active License

The Board is allowed to issue a “federally active license” to a licensed physician assistant who makes a written application, remits the required fee, and who practices as a physician assistant solely in the course of employment or active duty with the U.S. government. Under this designation a person may engage in limited practice outside the course of federal employment consistent with the scope of practice of the exempt licensees except that the scope is limited to the following:

- Performing administrative functions;
- Providing direct patient care services gratuitously or providing supervision, direction, or consultation for no compensation;
 - However, payment for subsistence allowances or actual and necessary expenses incurred in providing such services is allowed; and
- Rendering professional services as a charitable health care provider.

Federally active licensees are subject to licensure fees and continuing education requirements. A person practicing under this designation is not deemed to be rendering professional services for the purpose of KSA 2014 Supp. 40-3402, relating to professional liability insurance. The requirements may be established by rules and regulations adopted by the Board.

Do Not Resuscitate Directives Act

The bill allows a physician assistant to write do not resuscitate (DNR) orders if delegated the authority by a physician and revises the DNR statutory form to include a physician assistant signature line.

“Physician assistant” is defined to mean a person licensed by the Board to practice as a physician assistant.

Pharmacy Act

After January 11, 2016, the bill changes “written protocol” to “written agreement” and “responsible physician” to “supervising physician” as the term relates to the authority of a physician assistant to prescribe drugs.

Implementation

The bill reverts language specified below to terms in law prior to July 1, 2014, but only until January 11, 2016, when new terms become effective.

- “Agreement” means “protocol” until July 11, 2016, when it means “agreement,” and “supervising physician” means “responsible physician” until July 11, 2016, when it means “supervising physician.” “Supervising physician” means a physician who has accepted responsibility for the medical services rendered and

actions of the physician assistant while performing under the direction and supervision of the supervising physician. "Responsible physician" means a physician who has accepted continuous and ultimate responsibility for the medical services rendered and actions of the physician assistant while performing under the direction and supervision of the responsible physician. These distinctions are applicable to:

- A physician who has accepted responsibility for the medical services rendered and actions of a physician assistant; (This change amends the Physician Assistant Licensure Act, the Controlled Substances Act, and KSA 2014 Supp. 72-8252 relating to school districts adopting policies to allow students to self-medicate.) and
- A statute, contract, or other document referencing a supervising physician and a physician assistant;
- The Board is required to adopt rules and regulations to be effective January 11, 2016, governing the practice of physician assistants;
- Physician assistants are allowed to dispense prescription-only drugs on and after January 11, 2016; and
- The Board limits the number of physician assistants a responsible physician may supervise at any one time to two until January 11, 2016.

INSURANCE

Life Insurance—Principle-Based Valuation; Standard Nonforfeiture Law; SB 47

SB 47 amends provisions in the Insurance Code pertaining to the methodology for determining future minimum life insurance policy reserves by adopting “Principle-Based Reserving” (PBR) contained in the National Association of Insurance Commissioners’ (NAIC) Model Standard Valuation Law. In updating to this new methodology, the bill amends provisions in both the Standard Valuation Law and the Standard Nonforfeiture Law. Under former law, the calculation of reserves was made using a rules-based formulaic approach.

Definitions and general provisions relating to insurance policies and contracts subject to the PBR requirements will be applicable on and after the operative date of the Valuation Manual. (The operative date of the Valuation Manual will be January 1 of the first calendar year the Valuation Manual is effective.)

Standard Valuation Law—Incorporating PBR Requirements

Definitions. The bill establishes definitions for several terms, including these:

- **Company** – An entity which has written, issued or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and has at least one such policy in force or on claim; or has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type contracts in this state;
- **Deposit-type contract** – Contracts that do not incorporate mortality or morbidity risks and may be specified in the Valuation Manual;
- **Principle-based valuation** – A reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with principle-based valuation requirements in the bill, as specified in the Valuation Manual; and
- **Valuation Manual** – The manual of valuation instructions adopted by the NAIC.

Insurance Products Subject to Minimum Reserve Requirements—Continuing Law and New Law

The bill clarifies the annual reporting of certified valuation of the policies of life insurance companies to the Insurance Commissioner will continue for the policies and contracts issued prior to the operative date of the Valuation Manual. The bill delineates which requirements will be applicable for policies and contracts based on the timing of their issuance relative to the operative date of the Valuation Manual:

- Policies and contracts issued prior to the operative date of the Valuation Manual and prior to the operative date of the Standard Nonforfeiture Law; and
- Policies and contracts issued prior to the operative date of the Valuation Manual but after the operative date of the Standard Nonforfeiture Law.

In both instances described above, the formulaic reserve calculation methodology specified in law will remain unchanged.

The bill then provides a new methodology for policies and contracts issued on or after the effective date of the Valuation Manual. The bill requires the Commissioner to annually value the reserve liabilities (referred to in the PBR amendments as “reserves”) for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts. The Commissioner is allowed to accept, in the case of a foreign or alien company, a valuation made by the supervisory official of that state or other jurisdiction.

PBR Products Subject to Review—Documentation Requirements

Each life insurance company annually files an actuarial opinion of reserve liabilities which must include support information for review (e.g., investment earnings on assets, consideration of and provision for the company’s obligations under its policies and contracts). Each insurer subject to the PBR requirements of the bill also must file an actuarial opinion of reserves in a manner similar to former law. The bill creates provisions to accommodate additional standards specified in the Valuation Manual. The bill requires companies, unless otherwise exempted in the Valuation Manual, to file the actuarial opinion of an appointed actuary on reserves, including support information. The opinion must be submitted in the form and substance specified in the Valuation Manual and acceptable to the Commissioner. Additionally, if the Commissioner determined the insurance company failed to provide a supporting memorandum or the filed supporting memorandum failed to meet certain standards, the Commissioner is permitted to engage a qualified actuary at the expense of the company to review the opinion and prepare the memorandum. The bill also provides that disciplinary action by the Commissioner against a company or the appointed actuary must be defined in rules and regulations adopted by the Commissioner.

Accident and health insurance contracts. The bill specifies the standard of valuation applicable to accident and health insurance contracts based on the timing of the operative date of the Valuation Manual. For those contracts issued prior to this date, the Commissioner must adopt rules and regulations establishing the minimum standard of valuation. (The Commissioner has been required to adopt rules and regulations relating to the minimum standards applicable to the valuation of accident and sickness insurance.) For those contracts issued on or after the operative date of the Valuation Manual, the standard prescribed in the Valuation Manual will be the minimum standard of valuation required.

Standard of Valuation and Operative Date of the Valuation Manual

The bill specifies, for life insurance policies and contracts issued on or after the operative date of the Valuation Manual, the standard prescribed in the Valuation Manual will be the minimum standard of valuation required. The bill specifies the operative date of the Valuation Manual will be January 1 of the first calendar year following the first July 1 in which the following have occurred:

- The Valuation Manual has been adopted by the NAIC by an affirmative vote of at least 42 members, or three-fourths of the members voting, whichever is greater;
- The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than 75 percent of the direct premiums as reported in certain annual statements submitted for 2008; and
- The Standard Valuation Law, as described above, has been enacted by at least 42 of the 55 jurisdictions.

The bill also provides for determination of effective dates of future changes to the Valuation Manual.

Valuation Manual requirements. The bill outlines specifications associated with the Valuation Manual. Among the requirements, the Valuation Manual must specify:

- Minimum valuation standards for and definitions of the policies and contracts issued on and after the operative date of the Valuation Manual, including:
 - The Commissioner's reserve valuation method for life insurance contracts, other than annuity contracts;
 - The Commissioner's annuity reserve valuation method for annuity contracts; and
 - Minimum reserves for all other policies or contracts subject to the PBR requirements.
- Which policies or contracts are subject to the requirements of principle-based valuation and the minimum valuation standards consistent with those requirements;
- Requirements for the format of reports including the information necessary to determine if the valuation is appropriate and in compliance (limited to those companies subject to PBR);
- Other requirements, including reserve methods and risk measurement; and
- The data and form of data required and other specifications regarding data analyses and reporting of analyses.

The bill permits the Commissioner to employ or contract a qualified actuary, at the expense of the company, to perform an actuarial examination on the company and provide an opinion on the appropriateness of any reserve assumption or methodology used. The Commissioner also is authorized to require a company to change any assumption or methodology that is necessary to meet the required standard for reserves.

Requirements of principle-based valuation. The bill also sets forth conditions on policies and contracts issued by a company subject to principle-based valuation requirements. Among the conditions for companies establishing reserves using the PBR the requirements are:

- Quantifying the benefits and guarantees, and the fund, associated with the contracts and their risks at a level of conservatism reflecting conditions that include unfavorable events having a reasonable probability of occurring during the lifetime of the contracts; and
- Providing margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty, the larger the margin and resulting reserve.

The bill also requires companies using principle-based valuation to establish procedures for corporate governance and oversight of the actual valuation function, provide the Commissioner an annual certification of the effectiveness of its internal controls with respect to principle-based valuation, and develop and file with the Commissioner, upon request, a principle-based valuation report that complies with the standards prescribed in the Valuation Manual. Companies will be required to submit mortality, morbidity, policyholder behavior or expense experience, and other data as prescribed in the Valuation Manual.

Confidentiality. The bill provides a definition of “confidential information” to include the memorandums in support of actuarial opinions and related documentation and documents, materials, and working papers created, produced, or obtained by or disclosed to the Commissioner or others in the course of an examination. Additionally, the bill creates provisions outlining the privilege for, and confidentiality of, confidential information. The bill states a company’s confidential information is confidential by law and privileged (exceptions are noted), and not subject to the Kansas Open Records Act, not subject to subpoena, and not subject to discovery or admissible in evidence in any private civil action. The exception allows the Commissioner to use the confidential information in the furtherance of regulatory or legal action brought against the company. The bill then specifies how the Commissioner is permitted to share confidential information with certain regulators, law enforcement officials, and the NAIC.

Exemption for certain products and lines. The Commissioner is permitted to exempt specific product forms or product lines of a domestic insurance company that is licensed and doing business only in Kansas.

Standard Nonforfeiture Law—Amendments

The bill specifies, for policies issued on and after the effective date of the Valuation Manual, the Valuation Manual will provide the Commissioners’ standard mortality table for use in determining the minimum nonforfeiture standard. For those policies issued on or after the operative date of the Valuation Manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year will be provided by the Valuation Manual.

Risk Management and Own Risk and Solvency Assessment Act; SB 76

SB 76 creates the Risk Management and Own Risk and Solvency Assessment Act (Act). The requirements of the Act apply to certain insurers and insurance groups transacting business in Kansas.

The Act:

- Provides requirements for maintaining a risk management framework and completing an own risk and solvency assessment (ORSA) summary report with the Insurance Commissioner; and
- Contains, along with the ORSA summary report, confidential and sensitive information related to an insurer or insurance group's identification of risks material and relevant to the insurer or group filing the report. The bill further states the "information will include proprietary and trade secret information that has the potential for harm and competitive disadvantage to the insurer or group if the information is made public. The ORSA summary report shall be a confidential document filed with the commissioner and shall only be shared as stated herein and to assist the commissioner in the performance of the commissioner's duties. In no event shall the ORSA summary report be subject to public disclosure."

Definitions

The bill creates definitions associated with the Act, including:

- Insurance group – those insurers and affiliates included within an insurance holding company system;
- Own risk and solvency assessment or ORSA – a confidential internal assessment, appropriate to the nature, scale and complexity of an insurer or insurance group, conducted by that insurer or insurance group of the material and relevant risks associated with the insurer or insurance group's current business plan and the sufficiency of capital resources to support those risks;
- ORSA Guidance Manual – the current version of the ORSA manual developed and adopted by the National Association of Insurance Commissioners (NAIC), as in effect on January 1, 2017; and
- ORSA Summary Report – a confidential high-level summary of an insurer or insurance group's ORSA.

Requirements on Insurers and Insurance Groups

Under the requirements specified in the bill, an insurer will be required to maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing, and reporting on its material and relevant risks. This requirement could be satisfied if the insurance group of which the insurer is a member maintains an applicable risk management framework. An insurer or insurance group is required to regularly conduct, at least annually and when there are significant changes to the risk profile of the insurer or the insurance group, an ORSA consistent with the process specified in the ORSA Guidance Manual.

Upon the request of the Insurance Commissioner, and on an annual basis, an insurer will be required to submit to the Commissioner an ORSA Summary Report or a combination of

reports that contain information described in the ORSA Guidance Manual. The reports will be required to include the signature of an officer or other executive having responsibility for the oversight of the insurer's enterprise risk management process. Documentation and supporting material associated with the ORSA Summary Report is required to be maintained and made available upon examination or at the request of the Commissioner. The bill provides reporting requirements for insurers and insurance groups making reports to commissioners in other states and regulators in foreign jurisdictions.

Exemptions; Risk Management Framework

The bill exempts insurers from the requirements of the Act if:

- The insurer has an annual written and unaffiliated assumed premium, including international and direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$500 million; and
- The insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$1 billion.

The bill further clarifies ORSA Summary Report filing requirements for those insurers and insurance groups that meet one of the two allowable exemptions and requests for waivers from reporting by an insurer or insurance group. The Commissioner is authorized to require an insurer maintain a risk management framework, conduct an ORSA, and file an ORSA Summary Report based on unique circumstances, such as the type and volume of business written, ownership and organizational structure, and federal agency requests and international supervisor requests. The bill also provides for the filing of certain information by an insurer in the event the insurer no longer qualifies for an exemption.

Confidentiality—Proprietary Information; Duties of the Insurance Commissioner

The bill specifies that documents, materials, or other information, including the ORSA Summary Report, in the possession or control of the Department of Insurance that are obtained or created by or disclosed to the Commissioner or any other person under the Act are recognized by this state as being proprietary and to contain trade secrets. The bill declares that all such documents, materials, or other information is confidential by law and privileged, not subject to the Kansas Open Records Act, not subject to subpoena, and not subject to discovery or admissible in evidence in any private civil action. The bill grants the Commissioner the authority to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties. The Commissioner will not be permitted to otherwise make the documents, materials, or other information public without the prior written consent of the insurer. Further, neither the Commissioner nor any other person in receipt of the documents, materials, or other ORSA-related information will be permitted or required to testify in any private civil action concerning any such confidential documents.

The bill specifies certain agreements, arrangements, procedures, and notifications to gather information and share confidential and privileged documents, materials, and ORSA-

related information the Commissioner could utilize to perform the regulatory duties. The bill further specifies that documents, materials, or other information in the possession or control of the NAIC or a third-party consultant shall be confidential by law and privileged, shall not be subject to subpoena, and shall not be subject to discovery or admissible as evidence in any private civil action.

Penalty

If an insurer fails, without just cause, to timely file its ORSA Summary Report, the bill requires the insurer, after notice and hearing, to pay a penalty for each day's delay, to be recovered by the Insurance Commissioner. The bill further provides the recovered penalty must be paid into the State General Fund. The maximum penalty allowed under the Act is \$50,000. The Commissioner is allowed to reduce the penalty if the insurer demonstrates the imposition of the penalty would constitute a financial hardship.

Severability; Effective Dates

The bill provides, if any provision of the Act or application thereof is held invalid, the determination will not affect the provisions or application of the Act which can be given effect without the invalid provision or application and, to that end, the provisions of the Act are severable.

The bill specifies the first filing of the ORSA Summary Report will be in 2017 and the Act will take effect and be in force from and after January 1, 2017, and its publication in the statute book.

Vision Care Services Act; SB 206

SB 206 amends provisions of the Vision Care Services Act.

The bill authorizes the Insurance Commissioner to administer the provisions of the Act. The Commissioner is allowed to adopt rules and regulations necessary to carry out the provisions of the Act as applicable to any insurer, health insurer, health benefit plan, or vision care insurance provider. The bill requires the Attorney General to administer the provisions of the Act as it applies to discount cards and vision care discount plans. The Attorney General is allowed to adopt rules and regulations necessary to carry out the provisions of the Act. The Commissioner and the Attorney General are required to adopt the necessary rules and regulations no later than January 1, 2016.

Additionally, the bill amends the definition of a "vision care discount plan" to mean any entity specifically authorized by the vision care providers to provide discounts to patients. The vision care discount plan is not insurance nor a discount card, as defined in statute.

Insurance Code Amendments—Legal Services and Prepaid Service Plans; Nonprofit Dental Service Corporations; Fraudulent Insurance Acts; External Review; Accident and Sickness Policies; and HCPIAA Amendments; HB 2064

HB 2064 amends the Insurance Code to:

- Add insurance against the cost of legal services to the classes of insurance that could be provided by authorized insurance companies and exempt companies meeting certain criteria from the definition of prepaid service plan and related requirements;
- Expand the types of payments received by nonprofit dental service corporations that could be used in a calculation of certain expenses;
- Modify the definitions of a “fraudulent insurance act” and an “external review organization” and require insurers to submit an anti-fraud plan to the Insurance Commissioner;
- Modify uniform accident and sickness insurance policies provisions to create exclusions relating to individual insurance policies; and
- Modify the Health Care Provider Insurance Availability Act (HCPIAA) to clarify exemptions from the defined term “health care provider,” add a definition for “health care facility,” and allow certain health care systems to aggregate insurance premiums for the purpose of obtaining a certificate of self-insurance.

Classes of Insurance; Definition of “Prepaid Service Plan”

The bill adds insurance against the cost of legal services to the classes of insurance that could be provided by any insurance company organized under state law or authorized to transact business in the state, other than a life insurance company. The bill exempts these property and casualty insurance companies from the definition of prepaid service plans. The bill also creates an exemption for companies providing products and services for a fee where customers receive consultations with a licensed attorney connected to the customer by the company, so long as the company does not directly provide legal service, pay for legal services beyond a minimal administrative fee per customer, or indemnify or reimburse the customer for any legal expenses incurred.

Nonprofit Dental Service Corporations

The bill expands the types of payments received by nonprofit dental service corporations that could be used in calculating the percentage of allowable disbursements as expenditures for solicitation or as administrative expenses. Under the bill, nonprofit dental service corporations are not limited to the use of a percentage of the aggregate amount of payments received from subscribers in calculating the overhead limit, but are permitted to include all payments allowed under the nonprofit dental service corporations’ enabling statute.

Fraudulent Insurance Acts

The bill amends the definition of a “fraudulent insurance act” to add electronic, electronic impulse, facsimile, magnetic, oral, or telephonic communication to the means by which fraudulent insurance acts may be committed. The bill also amends law that had made optional

the submission of an anti-fraud plan by an insurer to the Commissioner as part of the required anti-fraud initiatives, and instead requires the anti-fraud plan to be submitted.

External Review Organizations—Accreditation

The bill amends the definition of an “external review organization,” which is an entity that conducts independent external reviews of adverse health care decisions in utilization reviews, to remove the option such an entity have experience serving in that capacity in health programs administered by the state. The bill leaves as the only option the requirement the external review organization be nationally accredited and utilize health care providers actively engaged in the practice of their profession in the state who are qualified and credentialed with respect to the health care service review.

Accident and Sickness Insurance—Individual Policies

The bill creates an exclusion for individual policies in two provisions within the uniform policy requirements in KSA 40-2203 governing insurance with other insurers. Group insurance and other coverages have been excepted from the definition of “other valid coverage.” The bill excludes individual accident and sickness policies from these two provisions. (This exclusion appears to prevent a “stacking” of insurance coverages or policies per occurrence or loss.)

“Accident and sickness insurance” is defined by law as “any policy or contract insuring against loss resulting from sickness or bodily injury or death by accident, or both, issued by a stock, or mutual company or association or any other insurer.”

HCPIAA—Amendments

The bill clarifies exemptions from the term “health care provider” under the HCPIAA to designate certain health care providers who will not be subject to a requirement to purchase basic professional liability insurance coverage or pay surcharges as required with such coverage. The bill specifies “health care provider” does not include any person holding an exempt license from the State Board of Nursing and clarifies language in the exclusion provision for advanced practice registered nurses and physician assistants who are employed in or on active duty in the federal government or who provide professional services as a charitable health care provider and extends this exclusion from the definition to nurse anesthetists.

The bill also amends the HCPIAA to allow a health care system that owns or operates more than one medical care facility or more than one health care facility to aggregate insurance premiums for the purpose of obtaining a certificate of self-insurance from the Health Care Stabilization Fund Board of Governors. The bill defines the term “health care facility” to mean a nursing facility, an assisted living facility, or a residential health care facility as such terms are defined in the Adult Care Home Licensure Act.

Under the prior law, the self-insurance provisions of the HCPIAA applied to a health care provider or system owning or operating two or more medical care facilities, the Kansas Soldiers’ Home, the Kansas Veterans’ Home, persons engaged in certain post-graduate training, and persons engaged in residency training.

Investments by Other Than Life and Life Insurance Companies; HB 2066

HB 2066 amends statutes in the Insurance Code governing investments by insurance companies other than life and life insurance companies to unify the language in these complementary statutes; adds definitions for clarification; expands the investments a life insurance company could make to permit all allowable domestic investments to be made on a foreign basis; and allows both life insurance companies and other than life insurance companies to invest in second lien mortgages, with an increase in the loan-to-value ratio for first and second liens from 80 percent to 90 percent, and clarifies that insurers may be indirectly secured by a mortgage.

In the statutes governing investments by life insurance companies and investments by other than life insurance companies, the following additional changes are made:

- “Business entity” replaces references to “corporation” or “company”;
- Definitions for “business entity,” “NAIC” (National Association of Insurance Commissioners), and “SVO” (Securities Valuation Office of the NAIC or any successor office established by the NAIC) are added;
- A more recent quarterly financial statement filed with the Insurance Commissioner is allowed to establish the admitted assets for purposes of investment limits; and
- Clarification the ratings for mortgage-related securities are designated by the SVO or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO.

Risk-Based Capital Instructions and Property and Casualty Actuarial Opinion Letter Law; HB 2126

HB 2126 restores provisions in and updates an expiration date in the Property and Casualty Actuarial Opinion Letter Law and amends the effective date specified in the Insurance Code for the risk-based capital (RBC) instructions promulgated by the National Association of Insurance Commissioners (NAIC) for property and casualty insurance companies, as well as for life insurance companies.

The bill restores language in the Property and Casualty Actuarial Opinion Letter Law relating to the authority of the Insurance Commissioner to release and utilize certain confidential documents, materials, and other information associated with disciplinary proceedings and other regulatory or legal actions. (The language was stricken as the provisions, originally enacted in 2008 and subject to legislative review in 2013, were not reviewed or updated during the 2014 Session.) Additionally, the bill specifies these reinstated provisions expire on July 1, 2020, unless the Legislature reenacts such provisions. The provisions are subject to legislative review prior to July 1, 2020.

The bill also amends the effective date for the RBC instructions promulgated by the NAIC for property and casualty insurance companies and for life insurance companies. The bill

updates the effective date on the RBC instructions from December 31, 2013, to December 31, 2014.

HMO Privilege Fee, Medical Assistance Fee Fund, and Amendments to TANF Cash Assistance ATM Transaction Limits; Senate Sub. for HB 2281

Senate Sub. for HB 2281 creates in the State Treasury the Medical Assistance Fee Fund, increases the annual privilege fees paid by every health maintenance organization (HMO), authorizes the Insurance Commissioner (Commissioner) to terminate the operation or the change in the rate of the privilege fee under certain conditions, and amends one section enacted in 2015 Senate Sub. for HB 2258 pertaining to Temporary Assistance for Needy Families (TANF) cash assistance transactions for cash withdrawals from automated teller machines (ATMs).

Medical Assistance Fee Fund; HMO Privilege Fee

The bill creates in the State Treasury the Medical Assistance Fee Fund (Fund); increases the annual privilege fees paid by every HMO for the reporting period beginning January 1, 2015, and ending December 31, 2017, from 1.0 percent per year to 3.31 percent per year of the total of all premiums, subscription charges, or any other term that may be used to describe the charges made by such organization to enrollees; and states the privilege fees paid from July 1, 2015, through June 30, 2018, are deposited in the Fund, instead of the State General Fund (SGF). On and after January 1, 2018, the privilege fee will be 2.0 percent.

The provisions pertaining to the creation of the Fund, its administration, and reporting expire on July 1, 2018.

If the Commissioner determines at any time that the application of the privilege fee, or a change in the rate of the privilege fee, causes a denial of, reduction in, or elimination of federal assistance to the state or to any HMO subject to this act, the Commissioner is authorized to terminate the operation of such privilege fee, or the change in such privilege fee.

From July 1, 2015, through June 30, 2018, all moneys collected or received by the Commissioner from HMOs, including the three KanCare Managed Care Organizations (MCOs), and Medicare provider organizations for fees specified in KSA 2014 Supp. 40-3213 are remitted to the State Treasurer for deposit in the State Treasury to the credit of the Fund. (Those include fees for filing an application for a certificate of authority, filing each annual report, and filing an amendment to the certificate of authority, and privilege fees.)

Moneys in the Fund are to be expended for Medicaid medical assistance payments and for no other governmental purpose. The moneys in the Fund are not subject to allotments by the Governor, certificates of indebtedness, or transfers by the Secretary of Health and Environment.

The Secretary of Health and Environment is required to prepare and deliver to the Legislature, on or before the first day of each regular legislative session, a report summarizing all expenditures from the Fund, Fund revenues, and recommendations regarding the adequacy of the Fund to support necessary medical assistance programs.

TANF Assistance and Requirements—Amendment

The Secretary for Children and Families is authorized to raise or rescind the ATM withdrawal limit in order to ensure continued appropriation of the TANF Block Grant through compliance with the provisions of the Middle Class Tax Relief and Job Creation Act of 2012 that govern adequate access to cash assistance. [See also the bill summary for Senate Sub. for HB 2258.]

Insurance Code Amendments—ASD Coverage; Termination of Certain Coverage, Notice of; Financial Examinations; State High Risk Pool; Surplus Lines Insurance; SLIMPACT; HB 2352

HB 2352 makes several amendments to the Insurance Code. Among the amendments, the bill makes changes to the definitions of “large employer” and “small employer” in the law requiring insurance coverage for Autism Spectrum Disorders (ASD); updates provisions associated with the mailing of notice of termination of certain insurance coverage and financial examinations of certain insurance companies; repeals 2011 law authorizing the state to join the Surplus Lines Insurance Multi-State Compliance Compact (SLIMPACT); and simplifies the calculation of gross premiums for surplus lines insurance.

ASD Coverage—Amendments to 2014 Law

The bill amends “large employer” to increase the number of employees from at least 51 to at least 101 employees. The limit on the number of employees of a “small employer” changes from a limit of 50 to a limit of 100 employees. (“Small” and “large” employers are terms used in connection with group health benefit plans and the ASD coverage requirement.)

Mailing Notice of Termination of Insurance Coverage

The bill amends a provision in the Kansas Automobile Injury Reparations Act to provide insurance companies the option to mail notice of motor vehicle liability insurance termination by any other mail tracking method currently used, approved, or accepted by the United States Postal Service (USPS).

Under continuing law, automobile liability insurance companies are prohibited from terminating policies or renewals, except in the instance of nonpayment or at the request from the policyholder, until at least 30 days after mailing a notice of termination by certified or registered mail, or USPS certificate of mailing. The bill expands the options associated with providing notice of termination.

Financial Examinations of Certain Insurance Companies and the Kansas Uninsurable Health Insurance Plan

The bill amends provisions in the Insurance Code pertaining to permissible fees and expenses associated with certain financial examinations and the frequency rate of a financial examination of the plan administrator for the Kansas Uninsurable Health Insurance Plan Act (an act governing the State High Risk Pool).

Outside Consulting Fees and Expenses

The bill increases for certain insurance companies, from \$100,000 to \$500,000, the maximum amount allowed for the collective total of payment of outside consulting and data processing fees associated with the financial examination of an insurance company or society or its subsidiaries and the *pro rata* amount to fund the purchase of examination equipment and computer software. Those companies subject to this consulting fee and equipment purchase limitation are those with \$200 million or more in gross premiums, both direct and assumed, in the prior calendar year.

Kansas Uninsurable Health Insurance Plan Act—Amendments

The bill amends the Kansas Uninsurable Health Insurance Plan Act to decrease the frequency of the required examination period of the financial status of the Plan, from at least once every three years to at least once every five years. By law, the Insurance Commissioner (Commissioner) is required to transmit a copy of these examination results to the Legislature by February 1 of the year following the year in which the examination occurred.

Surplus Lines Insurance; Surplus Lines Insurance Multi-State Compliance Compact

The bill creates new definitions and amends existing requirements in the Insurance Code pertaining to the regulation of excess lines insurance (also referred to by the term “surplus lines insurance”). Additionally, the bill will repeal SLIMPACT. The State of Kansas became a member of the Compact *via* the enactment of 2011 HB 2076.

Definitions

The bill creates new definitions to be applicable to provisions in the Insurance Code relating to the regulation of excess lines insurance coverage. Among the defined terms are:

- Exempt commercial purchaser – any person purchasing commercial insurance that, at the time of placement, meets the following requirements:
 - Employs or retains a qualified risk manager to negotiate insurance coverage;
 - Has paid aggregate nationwide commercial property and casualty insurance premiums in excess of \$100,000 in the immediately preceding 12 months; and
 - Does one of the following:
 - Possesses a net worth in excess of \$20,040,000, except that this amount would be adjusted every five years by rules and regulations of the Commissioner to account for the percentage change in the Consumer Price Index;
 - Generates annual revenues in excess of \$55,100,000 (this amount also would be adjusted every five years as detailed above);

- Employs more than 500 full-time or full-time-equivalent employees per insured entity or is a member of an affiliated group employing more than 1,000 employees in the aggregate;
 - Is a not-for-profit organization or public entity generating annual budgeted expenditures of at least \$33,060,000 (this amount also would be adjusted every five years as previously detailed); or
 - Is a municipality with a population in excess of 50,000 persons;
- Home state – as the term applies to an insured:
 - The state in which an insured maintains its principal place of business or, in the case of an individual, the individual’s principal residence; or
 - If 100 percent of the insured risk is located out of the state (its principal place of business), the state to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated;
 - Non-admitted insurer – an insurer that is not authorized or admitted to transact the business of insurance under the law of the home state (this term would not include a risk retention group, as defined in 15 USC § 3901(a)(4)); and
 - Surplus lines insurance – insurance procured by a surplus lines licensee from a surplus lines insurer or other non-admitted insurer as permitted under the law of the home state. The term also would mean excess lines insurance as may be defined by applicable state law.

Gross Premiums for Surplus Lines Insurance—Calculation of Payment to Commissioner

The bill simplifies the computation method of surplus lines premium provided in current law by instead specifying licensed agents must collect and pay to the Commissioner a tax of 6.0 percent on the total gross premiums charged, less any return premiums, for surplus lines insurance transacted by the licensee pursuant to the license for insureds whose home state is Kansas. (The calculation in current law recognizes multi-state premiums and separately accounts for a tax rate of 6.0 percent for Kansas’ risks and exposures and a remittance, for risks located outside of the state, equal to the tax rate and fees assessed in other states and jurisdictions.)

Signed Affidavit or Statement of Diligent Search—Exempt Commercial Producer

The bill exempts a surplus lines producer seeking to place non-admitted insurance for an exempt commercial purchaser from filing a sworn affidavit or statement with the Kansas Insurance Department, if the surplus lines producer has disclosed to the exempt commercial producer that such insurance may or may not be available from the admitted market and the exempt commercial producer has subsequently requested in writing the surplus lines producer procure or place such insurance from a non-admitted insurer.

Under current law, a statement must be filed annually and specify that, after diligent effort, the agent has been unable to secure the amount of insurance required to protect the

property, person, or firm described in the agent's affidavit or statement from loss or damage in regularly admitted companies.

Rules and Regulations Authority—Insurance Commissioner

The bill permits the Commissioner to adopt rules and regulations as are reasonable, necessary, and incidental to the enforcement and administration of the provisions governing excess lines insurance. Any such rules and regulations must be adopted no later than January 1, 2017.

Effective Dates

The changes relating to ASD coverage will take effect and be in force from and after January 1, 2016, and its publication in the statute book. The changes to law and new law governing surplus lines insurance will be effective on and after January 1, 2016. All other provisions of the bill are effective as of July 1, 2015.

JUDICIARY

Kansas Sexually Violent Predator Act; House Sub. for SB 12

House Sub. for SB 12 creates and amends law governing the civil commitment of sexually violent predators and the Sexual Predator Treatment Program (SPTP), as follows.

The bill provides that continuing and new law governing such civil commitment shall be known as the Kansas Sexually Violent Predator Act (Act).

Provisions are added to the statute governing the initial identification of a person who may meet the criteria of a sexually violent predator (SVP) to require that notice be given to persons evaluated of the nature and purpose of the evaluation, that the evaluation will not be confidential, and that the person's statements and evaluator's conclusions could be disclosed to certain parties in proceedings under the Act. Disclosures to the Attorney General under the section are deemed to be in response to the Attorney General's civil demand for information to determine whether a petition shall be filed, and such information must be specific to the purposes of the Act and as limited in scope as reasonably practicable.

This statute also is amended to include certain mental health professionals on the multidisciplinary team and to remove a 30-day deadline for assessment by the team of whether a person is a SVP.

The statute governing the filing of a petition alleging a person is a SVP is amended to provide that the venue for a petition involving a person convicted of or charged with a federal or other state offense that would be a sexually violent offense in Kansas may be in the county where the person resides, was charged or convicted of any offense, or was released. Provisions are added to this statute to permit service of the petition on the attorney representing the person, to assess costs to the person for medical care and treatment provided for the person by the governmental entity having custody of the person and allow the governmental entity to obtain reimbursement for such costs from the person, and to clarify that court proceedings are civil in nature.

The statute establishing the Sexually Violent Predator Expense Fund is amended to broaden its use to include costs related to any civil action relating to commitment under the Act.

The statute governing the probable cause hearing is amended to specify that the person named in the petition shall be detained in the county jail until the SVP determination is made and to require the judge to file a protective order permitting disclosures of protected health information to parties, counsel, evaluators, experts, and others necessary to the SVP litigation proceedings. The 72-hour time requirement for the hearing is amended to also allow a hearing as soon as reasonably practicable or agreed upon by the parties.

The statute governing trial on the petition is amended to change a 60-day deadline from a deadline for trial to a deadline to set the matter for pretrial conference to establish a mutually agreeable date for trial. A right-to-counsel provision is narrowed to apply only to this statute, rather than to all proceedings under the Act, and provisions regarding retention of experts or professional persons for examination are modified to instead allow an independent exam under the Rules of Civil Procedure. The bill clarifies the jury trial provisions of this section do not apply to proceedings for annual review or proceedings on petitions for transitional release, conditional release, or final discharge.

The statute governing appellate and commitment procedure following the SVP determination is amended to clarify that appeals would be taken as civil appeals and that persons committed for control, care, and treatment by the Kansas Department for Aging and Disability Services (KDADS) are required to be segregated in different units than other patients under KDADS supervision.

The statute governing annual examinations of SVPs' mental conditions is amended to reflect changes made elsewhere in the bill.

The bill amends the statute governing petitions for transitional release authorized by the Secretary for Aging and Disability Services (Secretary) to adjust the timing requirement for the hearing, remove a provision allowing a jury upon demand, and clarify the standard for transitional release.

The statute governing subsequent petitions for transitional release, conditional release, and final discharge and placement restrictions for transitional or conditional release is amended to adjust the standard for such release or discharge and expand the limit on SVPs that may be placed by the Secretary in any one county on transitional or conditional release from 8 to 16.

The bill amends the statute setting forth rights and rules of conduct for SVPs to:

- Change the term “patient” to “person” in the definitions and throughout the section;
- Add definitions for “emergency lockdown” and “individual person management plan”;
- Clarify that rights under the section are statutory rights;
- Adjust the provision related to therapeutic labor, including requiring evaluation of the labor by staff every 180 days, instead of every 120 days;
- Adjust provisions related to treatment and medication, including adding more specific directions for administering medication over a person’s objection;
- Adjust provisions related to restraint and seclusion, including increasing the required monitoring interval from 15 to 30 minutes;
- Add provisions allowing for the use of individual person management plans;
- Specify that individual religious worship must comply with applicable law and facility rules and policies;
- Require persons to pay reasonable costs to receive copies of records, and allow the head of a treatment facility or designee to refuse disclosure if it will likely be injurious to the welfare of the person;

- Specify that the right to send and receive mail is subject to reasonable limitations and mail is subject to examination and inspection for contraband per facility rules and policies;
- Specify that contraband may be confiscated;
- Clarify what items a person may not receive through the mail;
- Clarify that use of clothing and toilet articles must comply with facility rules and policies;
- Clarify the right to possess personal property;
- Clarify the right to see visitors;
- Narrow the right to present grievances;
- Establish that reasonable limitations may be set on spending money;
- Remove a provision for an informal hearing regarding the denial of any rights under the decision, and clarify that notice of decision is all that is required when the facility makes an administrative decision of general applicability;
- Establish that proceedings concerning an action by KDADS shall be governed under the Kansas Administrative Procedure Act (KAPA) and the Kansas Judicial Review Act (KJRA), and that a person appealing any alleged violation or any other agency determination must exhaust all available administrative remedies before requesting a hearing under KAPA;
- Provide requirements for notice of right to appeal, request for hearing, and review of such request to the Office of Administrative Hearings (OAH);
- Allow any hearing before OAH, or any proceeding under KJRA, to be conducted by telephone or other electronic means, unless the presiding officer or court determines the interests of justice require an in-person hearing. An in-person proceeding shall occur at the place where the person is committed; and
- Establish venue in Pawnee County, Kansas, for all proceedings brought pursuant to KJRA, unless otherwise provided in the Act.

The bill amends the statute governing *habeas corpus* for persons committed under the Act to make the section's provisions applicable to any civil action filed by such person, adds the filing fee as a cost to be taxed, and taxes the costs to the person bringing the action. Provisions are added with certain requirements for affidavits and trust fund and other account statements for persons committed under the Act who seek to file civil actions without prepayment of fees. If the court determines the person is indigent, costs shall be taxed to the county responsible for the costs, and a district court receiving a statement of costs from another district court is required to approve payment, unless it is not the county responsible for the costs. A claimant

county may maintain an action against the debtor county if costs are not paid within 120 days. Requirements for payment of the filing fee, for filing *in forma pauperis*, and for payment of an initial partial filing fee are added. The bill specifies that no person committed under the Act is prohibited from bringing a civil action or pursuing an appeal for the reason that such person has no assets and no means by which to pay the initial partial filing fee. A provision for judgment of costs is added. Finally, continuing provisions related to dismissal and a “three-strikes-and-you’re-out” frivolous filing prohibition are moved to this section from the subsequent statutory section, and are deleted from the subsequent section.

The statute governing appealable orders under Chapter 59 is amended to except appeals under the KJRA from those appeals over which appeals under this section have priority.

The KJRA is amended to allow it to apply to the Act.

A provision regarding the release of a person who has undergone an identified physiological change rendering the person unable to commit a sexually violent offense is moved to a new section and amended to change the burden of proof from the State to the person. The person is required to demonstrate such change by clear and convincing evidence.

The bill establishes that the cost of post-commitment hearings, annual review hearings, evaluations, or other expenses provided for in the Act, as well as any SPTP administrative hearings involving the statutory rights of a SVP, or other program decisions appealed to OAH, shall be paid by the county responsible for the costs, which is defined as the county where the person was determined to be a SVP. OAH is required to provide a statement to such county at the conclusion of any of these proceedings, and the county is required to pay within the earlier of 60 days after receipt of the bill or prior to the expiration of the fiscal year in which the costs were incurred.

The bill establishes that the costs incurred for the care and custody of a person committed pursuant to the Act while such person is in the custody of a county law enforcement agency for a pending criminal proceeding shall be paid by the county with custody of the person, and the Secretary will be required to reimburse the county from the SPTP New Crimes Reimbursement Account (Account) for all costs that would have been paid from the account if the person had remained in the custody of the Secretary. Similarly, if a person committed pursuant to the Act commits a crime while committed and is prosecuted for such crime, the prosecution costs shall be paid by the county where the prosecution occurs, and the Secretary will be required to reimburse the county from the Account. If no funds are available in the Account, the county may file a claim against the State. The Secretary is directed to develop and implement a procedure for such reimbursements by January 1, 2016.

A statute governing conditional release is repealed.

Criminal History Record Information—Exclusions; SB 13

SB 13 clarifies the definition of “criminal history record information” by excluding information regarding the release, assignment to work release, or any other change in custody status of a person confined by the Department of Corrections or a jail. The bill also removes a reference to the Juvenile Justice Authority.

Bad Faith Assertions of Patent Infringement; Sub. for SB 38

Sub. for SB 38 adds provisions regarding bad faith assertions of patent infringement to the Kansas Consumer Protection Act.

The bill makes it an unconscionable act or practice under the Act to make a bad faith assertion of patent infringement by sending an electronic or written communication stating the intended recipient or affiliated person is infringing or has infringed on a patent if:

- The communication does not contain the following information and the information is not provided within a reasonable period of time upon request:
 - The name of the person asserting the patent license or enforcement right;
 - The patent number alleged to have been infringed; and
 - The factual allegations concerning the specific areas in which the intended recipient's or affiliated person's products, services, or technology infringe on or are covered by the patent;
- Prior to sending the communication, the person asserting patent infringement fails to compare, to the extent commercially reasonable and identifiable from public information, the scope of the patent to the products, services, or technology at issue, or the communication does not identify specific areas in which the products, services, or technology fall within the scope of the patent;
- The communication falsely states litigation has been filed against the intended recipient or affiliated person; or
- There is no reasonable basis for the assertion because the demand letter seeks compensation for a patent held to be invalid or unenforceable or an expired patent.

The bill specifies that nothing in its provisions shall be construed to be an unconscionable act or practice if a person:

- Has made a substantial investment in the use of the patent or in the production or sale of a related product or item;
- Has engaged in a good faith effort to establish the intended recipient or affiliated person has infringed the patent;
- Is the owner of the patent and sought compensation or other remedy in good faith for patent infringement;
- Is an inventor or joint inventor of the patent or is the original assignee of the patent by the original inventor;
- Has demonstrated good faith business practices in previous enforcement efforts for the patent or a substantially similar patent;

- Has successfully enforced the same or a substantially similar patent through litigation; or
- Is the owner of the patent and has made a good faith communication to any person that the patent is available for license or sale.

Any person engaging in the conduct prohibited by the bill is subject to the remedies and penalties under the Act and the investigatory and enforcement procedures and policies of the Attorney General's Office under the Act.

For the purposes of the Act, the person committing conduct prohibited by the bill shall be deemed the supplier and the affiliated person or intended recipient who is the victim shall be deemed the consumer, and proof of a consumer transaction is not required.

The bill specifies that county or district attorneys do not have authority to file a civil action under the bill.

The bill states it is not to apply to an assertion of patent infringement that includes a claim for relief arising under 35 USC § 271(e)(2) (certain drug and biological product patent infringement) or 42 USC § 262 (regulation of biological products).

The bill defines "person," "affiliated person," and "intended recipient."

Uniform Interstate Family Support Act; SB 105

SB 105 amends and enacts law within the Uniform Interstate Family Support Act (UIFSA), as follows.

Certain sections and provisions are rearranged within UIFSA, including the short title, definitions, and cumulative remedy provision.

The bill adds definitions for "convention," "foreign country," "foreign support order," "foreign tribunal," "issuing foreign county," "outside this state," "person," and "record." The definition of "initiating state" is removed. Other definitions are amended to incorporate UIFSA's application to foreign countries or to clarify the definition.

Kansas courts are designated as the tribunals of this state and the Department for Children and Families (DCF) is designated the support enforcement agency for this state.

The bill clarifies remedies provided by UIFSA do not affect recognition of a foreign support order on the basis of comity and UIFSA does not provide the exclusive method of establishing or enforcing a support order in Kansas or give Kansas courts jurisdiction to render judgment or issue orders relating to child custody, parenting time, or visitation.

The bill creates new law applying UIFSA to support proceedings involving foreign support orders, tribunals, or residents.

Provisions regarding personal jurisdiction under UIFSA are amended to clarify such jurisdiction may not be obtained unless certain requirements are met, and such jurisdiction

continues as long as a Kansas court has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided elsewhere in UIFSA.

Various sections are amended to incorporate UIFSA's application to foreign countries or to clarify language without making substantive changes.

The section governing continuing jurisdiction to modify a child support order is amended to clarify the time at which jurisdiction is determined and how jurisdiction may be lost, and to specify jurisdiction may continue with consent of the parties even when no party is a resident. A Kansas court without jurisdiction to modify a child support order may initiate a request to another state's tribunal to modify a support order issued in that state. A provision allowing continuing jurisdiction over a spousal support order is removed from this section, updated, and placed in a new section.

The bill specifies when a Kansas court may request a tribunal of another state to enforce a child support order issued in Kansas.

The procedure to determine which order controls where two or more child support orders have been issued is amended to add a personal jurisdiction requirement, require a tribunal to provide additional information in a new controlling order or an order determining the controlling order, update and clarify the procedure, and specify that orders made pursuant to this procedure must be recognized in proceedings under this act.

Language regarding the crediting of payments is clarified.

Provisions regarding receiving evidence, communicating with a tribunal outside the state, obtaining evidence through a tribunal outside the state, and which law the Kansas courts are to apply are updated and moved.

Provisions relating to the duties and abilities of initiating and responding tribunals are clarified, including the responsibility for converting foreign currency amounts.

Requirements for specific methods of service are removed from multiple sections.

The duties of the state enforcement agency are clarified, and the agency is required to make reasonable efforts when requesting registration of a child support order to ensure the order is the controlling order or that a request for determination of a controlling order, when necessary, is made in a tribunal with jurisdiction. The agency is required to convert foreign currency amounts in a support order, arrears, or judgment when requesting registration and enforcement. The agency is required to request a Kansas court issue a child support order and an income withholding order redirecting payment of current support, arrears, and interest if requested to do so by another state's support enforcement agency pursuant to UIFSA.

The duties of the Attorney General under UIFSA are amended to allow the Attorney General to determine that a foreign country has established a reciprocal agreement for child support with Kansas and provide notification of this determination.

Pleading requirements are updated and clarified and a verification requirement is removed.

Provisions for nondisclosure are amended to seal specific identifying information that a party alleges under oath would jeopardize the health, safety, or liberty of a party or child. A tribunal may order disclosure of such information in the interest of justice after a hearing in which the health, safety, or liberty concerns are considered.

An order for payment of costs and reasonable attorney fees is made mandatory where a hearing is requested primarily for delay, and the bill creates a presumption of intent to delay if a registered support order is confirmed or enforced without change.

Special evidentiary and procedural rules are amended with technical and clarifying changes, and a provision is added making a voluntary acknowledgment of paternity, certified as a true copy, admissible to establish parentage.

E-mail is added as a means of communication between Kansas courts and tribunals in other states.

A provision regarding the disbursement of payments is amended to direct the Kansas support enforcement agency or the courts, when none of the parties are Kansas residents, to direct that the support payment be made to the support enforcement agency in the state where the obligee is receiving service and to provide notice to the obligor's employer of the redirected payments. When the Kansas support enforcement agency receives redirected payments under this provision, it is required to provide to a requesting party or out-of-state tribunal a certified statement of the amount and dates of payments received.

The section allowing a Kansas court to issue a support order where an order entitled to recognition has not yet been issued is amended to clarify its provisions and provide further specificity regarding personal jurisdiction and the circumstances under which a temporary child support order may be issued.

A provision allowing a state tribunal authorized to determine parentage to serve as a responding tribunal in a proceeding to determine parentage brought under this Act or a similar law is modified and moved to a new section.

The bill amends the requirements for an obligor to contest the validity or enforcement of an income withholding order issued in another state and received by a Kansas employer to require registration of the order and filing of a contest as provided in UIFSA or otherwise contesting the order as if it had been issued by a Kansas court.

The procedure to register an order in Kansas is updated and clarified, and a person requesting registration is required to do the following if two or more orders are in effect: furnish to the court a copy of every support order asserted to be in effect; specify the order alleged to be the controlling order; and specify the amount of consolidated arrears. A provision is added stating a request for the determination of the controlling order may be filed separately or with a request for registration and enforcement or modification, and a person requesting registration must give notice to each party whose rights may be affected.

Choice of law provisions are revised and clarified, including amendments to specifically apply Kansas law to enforce current support and collect arrears and interest due on a support order from another state or country when a Kansas court is a responding tribunal. Once a controlling order is determined and arrears are consolidated, Kansas courts shall prospectively

apply the law of the jurisdiction issuing the controlling order on current and future support and on consolidated arrears.

Notice requirements to nonregistering parties are clarified, and specific notice requirements when a registering party asserts two or more orders are in effect are added.

An additional defense is provided to a party contesting the validity or enforcement of a registered order or seeking to vacate the registration: that the alleged controlling order is not the controlling order.

Provisions for the modification of a child support order issued in another state are clarified, and the bill specifies that the law of the state that issued the initial controlling order shall govern the duration of the obligation of support in a proceeding to modify an order. An obligor's fulfillment of the duty of support under such order precludes imposition of a further obligation by a Kansas court. The bill specifies that a Kansas court retains jurisdiction to modify an order issued by a Kansas court if one party resides in another state and the other party resides outside the United States.

The duties and abilities of a Kansas court with regard to a child support order issued by a Kansas court and modified by an out-of-state tribunal are clarified.

Law is created allowing a Kansas court to assume jurisdiction to modify a child support order and bind individuals subject to the personal jurisdiction of Kansas courts where such order was issued by a foreign country that lacks or refuses to exercise jurisdiction to modify the order, subject to certain restrictions elsewhere in UIFSA. Any modification order then becomes the controlling order.

One section is amended and several sections are created that apply only to a support proceeding under the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007 (Hague Convention). These provisions:

- Define "application," "central authority," "convention support order," "direct request," "foreign central authority," "foreign support agreement," and "United States central authority";
- Recognize DCF as the agency designated by the U.S. central authority as the agency to perform Hague Convention functions;
- Set forth the duties of DCF in a support proceeding and specify the support proceedings that are available to an obligee or obligor under the Hague Convention;
- Prohibit a Kansas court from requiring security, bond, or deposit to guarantee payment of costs and expenses in proceedings under the Hague Convention;
- Establish that a petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child, or recognition and enforcement of a support order or support agreement; specify the law that is to apply in these proceedings; establish when an obligee or obligor

is entitled to free legal assistance; and state that a petitioner filing a direct request is not entitled to assistance from DCF;

- Establish procedures and requirements for registration of a convention support order and provide that a Kansas court may vacate the registration of such order if it would be manifestly incompatible with public policy;
- Establish procedures for contesting a registered convention support order;
- Require Kansas courts to recognize and enforce a registered convention order, except for certain grounds specified in UIFSA;
- Require Kansas courts to enforce any severable part of a convention support order, and allow an application or direct request to seek recognition and partial enforcement of such order;
- Require Kansas courts to recognize and enforce foreign support agreements registered in the state, with certain exceptions;
- Prohibit a Kansas court from modifying a convention child support order if the obligee remains a resident of the country issuing the support order unless the obligee submits to the jurisdiction of the Kansas court or the foreign tribunal lacks or refuses to exercise jurisdiction;
- Limit the use of any personal information gathered or transmitted to the purposes for which it was gathered or transmitted; and
- Require any records filed to be in the original language and, if not in English, accompanied by an English translation.

The bill allows a party or DCF to register a foreign child support order not under the Hague Convention for the purposes of modification or enforcement.

The bill specifies its provisions apply to proceedings begun on or after its effective date to establish a support order; determine parentage; or register, recognize, enforce, or modify a prior support order, determination, or agreement, whenever issued or entered.

Human Trafficking; Civil Action for Victims of Human Trafficking and Related Conduct; Commercial Sexual Exploitation of a Child; SB 113

SB 113 creates and amends law related to human trafficking crimes and the crime of commercial sexual exploitation of a child.

The bill creates a civil cause of action for a victim of conduct that constitutes human trafficking, aggravated human trafficking, or commercial sexual exploitation of a child against the person or persons who engaged in such conduct, if the victim suffered personal or psychological injury as a result of the conduct. The victim may seek actual damages, exemplary or punitive damages, injunctive relief, and any other appropriate relief. The court is required to

award costs to the prevailing plaintiff, including reasonable attorney fees, and a victim awarded damages shall be deemed to have sustained damages of at least \$150,000. The bill requires the action be filed within 10 years after the victim was freed from the human trafficking situation or turned 18 years of age, whichever is later. A victim is allowed to request the Attorney General pursue the case on the victim's behalf, with damages awarded going to the victim. The Attorney General is allowed to seek reasonable attorney fees and costs. The action is subject to the subrogation provisions for compensation by the Crime Victims Compensation Board, and it will not preclude any other remedy available to the victim under federal or state law.

The bill adds human trafficking, aggravated human trafficking, and commercial sexual exploitation of a child to the list of offenses covered by the civil action available for victims of such offenses when any portion of the offense was used in the production of child pornography.

The bill requires a sentencing court to order a person convicted of human trafficking, aggravated human trafficking, or commercial sexual exploitation of a child to pay restitution to the victim of the offense for expenses incurred or reasonably certain to be incurred as a result of the offense, including reasonable attorney fees and costs, as well as the greater of three times the following amounts, without reduction for the defendant's expenses in maintaining the victim:

- Gross income to the defendant for, or the value to the defendant of, the victim's labor, services, or sexual activity;
- Amount the defendant contracted to pay the victim; or
- The value of the victim's labor, services, or sexual activity, calculated under the higher of the state or federal minimum wage.

The restitution is required even if the victim is unavailable to accept the restitution. If the restitution is not claimed within five years, the restitution shall be paid to the Human Trafficking Victim Assistance Fund.

The bill adds statutory references to the crimes of human trafficking, aggravated human trafficking, and commercial sexual exploitation of a child within the following statutory provisions, for the purpose of including the crimes within those provisions:

- Prohibition on the polygraph examination of certain victims;
- Convictions giving rise to a presumption of parental unfitness under the Code for Care of Children;
- Information identifying victims of certain offenses that shall not be open for public inspection as part of the files of proceedings under the Revised Juvenile Justice Code;
- Information identifying victims of certain offenses that shall not be disclosed or open to public inspection when part of law enforcement records or municipal court records under the Revised Juvenile Justice Code;

- Worker convictions disqualifying the operation of an adult care home;
- Worker convictions disqualifying the operation of a home health agency;
- Convictions preventing the issuance or renewal of a teacher's license; and
- Special timing requirements for application for compensation from the Crime Victims Compensation Board and an exception from the lower limit for compensation.

Similarly, the bill adds statutory references to the crime of commercial sexual exploitation of a child within the following statutory provisions, for the purpose of including the crime within those provisions:

- Application of sex offense definitions;
- Definition of a "covered person" under the Kansas Racketeer Influenced and Corrupt Organization Act;
- Information a prosecuting attorney must provide to victims of certain crimes, and the victim's right to be present at certain hearings;
- Notice to be given to victims (or their families) of certain crimes of an application for pardon or commutation;
- Notice to be given by the Secretary of Corrections to victims (or their families) of certain crimes prior to the release or after the escape or death of the inmate;
- Notice to be given by the county or district attorney to victims (or their families) of certain crimes upon the escape or death of committed defendants in the custody of the Secretary for Aging and Disability Services;
- Exception from notice of change in child's residence under the Parentage Act when the other parent has been convicted of certain crimes;
- Exception from notice of change in child's residence under provisions related to child custody when the other parent has been convicted of certain crimes;
- Convictions that may be used to prove the existence of domestic violence for the purpose of avoiding disqualification for unemployment benefits;
- Convictions to be included in a criminal history determination as part of an adoption assessment;
- Criminal cases excluded from requirements that a county or district attorney file a special allegation of sexual motivation and a court make a finding thereon;

- Application of the rule of evidence regarding other crimes or civil wrongs to sex offenses, and the definition of “act or offense of sexual misconduct” within this rule;
- Definition of “sexual assault” for the purposes of a substitute mailing address, making victims of the crime eligible for a substitute mailing address; and
- Exceptions from due process requirements for teachers at the state schools for the blind and the deaf whose certificates are nonrenewed or revoked for certain convictions.

The bill amends the definition of “sexual abuse” within the Code for Care of Children to include allowing, permitting, or encouraging a child to engage in aggravated human trafficking, if committed for the sexual gratification of the offender or another.

The bill also updates references to the Juvenile Justice Authority and physicians’ assistants.

Unlawful Abuse of Toxic Vapors; SB 252

SB 252 amends the crime of unlawful abuse of toxic vapors to include “other halogenated hydrocarbons” within the definition of “toxic vapors.”

Scrap Metal Theft Reduction Act; HB 2048

HB 2048 establishes the “Scrap Metal Theft Reduction Act” (Act) by adding and amending law related to scrap metal dealer registration and scrap metal sales. Additionally, the bill amends certain criminal provisions related to scrap metal theft.

Scrap Metal Theft Reduction Act

The bill gives the Attorney General jurisdiction and authority over the implementation, administration, and enforcement of the Act, including certain specified powers, and authorizes the Attorney General to adopt rules and regulations to implement the Act.

The bill establishes the Scrap Metal Theft Reduction Fee Fund to be administered by the Attorney General, which will be credited with all fees, charges, or penalties collected by the Attorney General under the Act. Expenditures from the Fund will be used for the administration of the duties, functions, and operating expenses incurred under the Act.

By July 1, 2016, the Attorney General is required to establish and maintain a database of scrap metal sales regulated elsewhere in the Act. Information from this database will be used for law enforcement and other purposes necessary to implement and enforce the Act. Information in the database will be confidential and released only to law enforcement for authorized uses. The information is not a public record or subject to the Kansas Open Records Act.

The bill gives the Attorney General power to administer oaths and affirmations, subpoena witnesses or matter (in-state or out-of-state), and collect evidence to investigate possible violations of the Act. The bill specifies how service may be made for these purposes. The Attorney General may request a court to order an individual to comply with a subpoena, and the bill provides immunity for a person who complies with a court order to provide testimony or matter after asserting a privilege against self-incrimination. The Attorney General may apply for, and the district court can order injunctive relief action against, the corporate charter or other licenses, permits, or certificates of any entity failing or refusing to file any statement or report required by the Act, or other relief as may be required against such entities.

On and after January 1, 2016, the bill establishes civil penalties of \$100 to \$5,000 for each violation of the Act by a scrap metal dealer, which can be imposed by the Attorney General and will be subject to appeal under the Kansas Judicial Review Act.

On and after January 1, 2016, the bill allows the Attorney General to bring a civil action to obtain a declaratory judgment that an act or practice violates the Act; enjoin or restrain any person who has violated, is violating, or is likely to violate the Act; recover reasonable expenses and investigation fees; or impose any civil penalty authorized by the Act. The court is allowed to take these actions without requiring bond of the Attorney General. The Attorney General is allowed to accept a consent judgment, which must be approved by the district court. Violation of such consent judgment will be subject to penalties for violation of a court order. Civil penalties of up to \$5,000 for each violation will be imposed, and willful violation of a court order under the Act will incur a civil penalty of up to \$10,000 per violation.

The bill establishes jurisdiction for Kansas courts over any person who, in-person or through an agent or instrumentality, engages in business as a scrap metal dealer as defined in the Act, and provides for venue in Shawnee County District Court or in any other district otherwise authorized by law.

The bill prohibits municipalities from enacting or enforcing any ordinance, resolution, or regulation relating to the implementation, administration, and enforcement of the Act, and declares any such ordinance, resolution, or regulation adopted prior to July 1, 2015, null and void. No action or prosecution based upon such ordinance, resolution, or regulation may be taken for any violation on or after July 1, 2014.

The bill amends existing statutes related to scrap metal to incorporate them within the Act.

Within the scrap metal definitions statute, the bill amends the definitions of “scrap metal dealer,” “regulated scrap metal,” “junk vehicle,” “nonferrous metal,” and “vehicle part.” The bill removes definitions of “regulated scrap metal yard,” “ferrous metal,” and “tin,” and adds definitions of “person” and “attorney general.”

In the statute setting forth transaction requirements for scrap metal sellers, the bill makes clarifying amendments to several requirements. It moves a requirement for a signed statement by the seller to this statute from the statute setting forth transaction requirements for scrap metal buyers. The bill also amends this section to require a dealer to photograph the seller and any regulated items being sold and to keep the photographs with the transaction record and dealer’s register of information. Dealers are required to forward the information required by this section to the database established by the Act. The bill further amends this section to remove exceptions related to transactions involving catalytic converters and

prohibitions on payment methods other than prenumbered checks or automated cash or electronic payment distribution. Exceptions for sellers who are scrap metal dealers are clarified and an exception for sellers who are licensed vehicle dealers is added.

In the statute setting forth transaction requirements for scrap metal buyers, the bill removes vehicle titles as acceptable documents to be provided by the seller of a vehicle purchased from an impounding facility or agency (leaving a bill of sale as the only option). The bill adds certain vendors to the list of entities for whom sellers must be authorized in order to sell restricted scrap metal items and adds "burnt wire" to the list of restricted scrap metal items.

A statute setting forth misdemeanor penalties for the violation of the existing statutes described above is repealed.

In the statute governing scrap metal dealer registration, the bill removes or transfers to the Attorney General registration requirements involving the board of county commissioners or the governing body of a city. The bill requires the Attorney General to establish a system for the public to confirm scrap metal dealer registration certificates, but disclosure of information from the system shall not constitute an endorsement of any scrap metal dealer. The bill requires applicants to provide additional information regarding their names, corporate structure, and location and hours. The list of prior convictions within ten years an applicant must disclose is expanded to include all crimes involving property, poisoning a domestic animal, perjury, compounding a crime, obstructing legal process or official duty, falsely reporting a crime, interference with law enforcement, interference with judicial process, or any crime involving dishonesty or false statement, including similar convictions in other jurisdictions. The bill allows the Attorney General to set registration fees of \$500 to \$1,500 per place of business, and the registration period is lowered from ten years to one year, with renewal fees of not more than \$1,500. A provision making violation of the registration provisions a class A nonperson misdemeanor is removed.

Effective January 1, 2016, the list of disqualifications for registration is expanded to include:

- A person who is not a U.S. citizen or legal permanent resident;
- A person who has entered into a diversion agreement for certain crimes; and
- A person who does not own the premises for which a license is sought, unless the person has a written lease for at least three-fourths of the period of the license.

The disqualifications statute is also amended with the following provisions, effective January 1, 2016:

- The look-back period for current disqualifications involving revocation or false statements on applications is extended from three to ten years. The look-back period for the disqualifying crimes is extended from five to ten years, and the bill clarifies that disqualifying crimes include those involving dishonesty or false statement, or similar convictions in other jurisdictions;

- A disqualifying provision for convictions within the preceding five years of violating the existing scrap metal statutes is removed; and
- The bill allows a criminal history records check for applicants for registration, including fingerprinting provisions. An applicant disqualified due to criminal history record information shall be informed in writing of the decision.

The statute governing registration suspension is amended, effective January 1, 2016, to reflect the transfer of jurisdiction from local authorities to the Attorney General and the restructuring of the Act. Nonpayment of a civil penalty after notice that the penalty is more than 30 days past due is added as a reason for revocation or suspension. A provision for appeal to the district court is removed and replaced with a provision for appeal in accordance with rules and regulations promulgated by the Attorney General.

Criminal Provisions

The bill amends the statute providing for *prima facie* evidence of intent to permanently deprive an owner or lessor of possession, use, or benefit of property to clarify the methods by which someone giving false identification may obtain control over property and to establish that various actions involving the failure to give information or giving of false information required by the Act or transportation or alteration of scrap metal shall be such *prima facie* evidence under the statute in a prosecution for theft involving regulated scrap metal.

The bill amends the statute governing the crime of criminal damage to property to create the crime of aggravated criminal damage to property, which is defined as criminal damage to property, if the value or amount of damage exceeds \$5,000, committed with the intent to obtain regulated scrap metal or related items, where the crime is committed on any building, structure, residence, facility, site, place, property, vehicle, or infrastructure. The bill sets forth a number of specific locations or properties that fall within these categories, and it provides definitions for “infrastructure” and “site.” The new crime is a severity level 6, nonperson felony, and a special sentencing rule is added to the sentencing grid statute imposing a sentence of presumptive imprisonment where an offender has a prior conviction for any nonperson felony.

In amendments to the criminal damage to property statute and the authorized dispositions statute, the bill sets forth various costs to be included in determining the amount of damage to property, including cost of repair or replacement; loss of production, crops, and livestock; labor and material costs; and costs of equipment used to abate or repair the damage. The bill also makes a reconciling amendment to the authorized dispositions statute and repeals a conflicting version of the statute.

The bill enacts new law in the Kansas Code of Criminal Procedure establishing that, at a preliminary examination, the business records containing the details of the sales or transactions maintained by scrap metal dealers pursuant to the Act may be admitted into evidence as if the individuals who made the record and the records custodian had testified in person.

Criminal History Calculation; HB 2053

HB 2053 amends statutes governing the calculation of criminal history to specify that any prior adult felony conviction, prior misdemeanor, or prior juvenile adjudication for offenses committed before July 1, 1993, shall be scored as a person or nonperson crime using a

comparable offense under the Kansas Criminal Code that was in effect on the date the current crime of conviction was committed. The bill states these amendments are procedural in nature and shall be construed and applied retroactively, and the bill contains a severability provision.

Risk Assessment and Juvenile Offender Placement; HB 2336

HB 2336 requires the court to administer a risk assessment tool or review a risk assessment tool administered within the past six months before a juvenile offender can be placed in a juvenile detention center, under house arrest, or in the custody of the Department of Corrections, or can be committed to a sanctions house or to a juvenile correctional facility.

Additionally, the bill modifies a general prohibition on placement of any juvenile convicted as an adult in a juvenile correctional facility by permitting placement of juveniles between 16 and 18 years of age who are convicted as adults or under extended jurisdiction juvenile prosecution in a juvenile correctional facility.

LICENSES, PERMITS, AND REGISTRATIONS

Real Estate License Fees; Contractual Relationships; SB 108

SB 108 allows the Real Estate Commission (Commission) to increase license fees. The bill also makes revisions to the real estate industry laws pertaining to regulation and contractual relationships.

The bill increases the limit placed on license fees charged to real estate salespersons and brokers. For salespersons, the fee limit for original and renewal licenses increases by \$50, from \$100 to \$150. For brokers, the fee limit increases by \$50, from \$150 to \$200.

The Commission may approve continuing education providers that offer real estate courses. The bill also clarifies the authority of the Commission to refuse to grant or renew a real estate license or place certain conditions on a license.

The Commission is authorized to take disciplinary action toward applicants and licensees who engage in prohibited conduct, even when a licensee is not involved in a real estate transaction as an agent, transaction broker, or principal. A buyer's or tenant's agent may present an offer to a seller or landlord if that person's transaction broker is present.

Roofer Registration Act; General Contractors; HB 2254

HB 2254 exempts general contractors from the Roofer Registration Act, which requires persons intending to perform roofing services for payment to register beforehand with the Office of the Attorney General. Upon request of a general contractor, the Attorney General may issue a letter of exemption to that person, stating the Roofer Registration Act does not apply, if one of the two following sets of conditions are met.

If a general contractor would be working without a roofer, the contractor must demonstrate:

- Compliance with all requirements to do business in the state, including local government requirements;
- Any roofing services performed would not account for more than 50 percent of the total project cost; and
- "Door-to-door sales," as defined by law, have not been conducted by the general contractor or persons working for the contractor.

If subcontracting with a roofing contractor, a general contractor must demonstrate:

- There is no direct supervision of the roofer's employees, and the roofing contractor is a separate legal business entity;
- The general contractor or persons working for that person do not engage in roofing services;

- The roofing contractor has a valid registration certificate, which the general contractor will retain a copy of and make available for inspection;
- A contract between the general contractor and the roofing contractor, specifying the terms and conditions of roofing services to be performed, including notification to the general contractor if the roofing registration certificate were to become invalid;
- Compliance with all requirements to do business in the state, including local government requirements; and
- “Door-to-door sales,” as defined by law, have not been conducted by the general contractor or persons working for the contractor.

The general contractor must inform the Attorney General if the roofing contractor is no longer in compliance with the Roofer Registration Act.

LOCAL GOVERNMENT

Annexation of Noncontiguous Land; HB 2003

HB 2003 amends law related to annexation of noncontiguous land by a city, sometimes called “island” annexation. Specifically, the bill changes authority for unilateral annexation of land owned by or held in trust for a city by adding a requirement that the land adjoin the city. The bill also changes provisions regarding consent annexation of noncontiguous land to require the affirmative vote of two-thirds of the members of the Board of County Commissioners, rather than a simple majority.

In addition, the bill amends law regarding unilateral annexation of highway right-of-way by making notification language consistent with language authorizing the annexation.

Claims Against Municipal Employees; HB 2246

HB 2246 amends law governing notice that must be provided to a municipality when a claim is filed against the municipality. The bill requires when a claim is brought against a municipal employee, notice must be provided to the municipality. The bill creates a definition of “employee” for this act.

Peck Improvement District; HB 2364

HB 2364 amends law regarding appointments to vacancies in the office of a director of an improvement district. The bill creates specific provisions for the Peck Improvement District located in Sumner and Sedgwick counties.

Under the bill, when a vacancy occurs in the office of a director of the Peck Improvement District, the Sumner County Commission appoints a resident of Sumner County or Sedgwick County to hold the office until the next election. If the Sedgwick County Commission does not reject the appointment within 30 days, the appointment is considered approved. If the appointment is rejected, the appointment process is repeated until a director is selected.

Continuing law, which applies to all other improvement districts, specifies when a vacancy occurs in the office of a director of an improvement district, the remaining directors appoint a person to fill the vacancy until the next election.

PUBLIC SAFETY

Criminal Justice Information System Line Fund; SB 14

SB 14 amends the statute governing the disposition of district court fines, penalties, and forfeitures to increase the percentage credited to the Criminal Justice Information System Line Fund from 2.91 percent to 4.4 percent.

Commission on Peace Officers' Standards and Training, Peer Support Counseling; HB 2025

HB 2025 amends law concerning law enforcement officers. Specifically, the bill amends the law concerning the authority of the Commission on Peace Officers' Standards and Training (the Commission) to suspend, condition, or revoke an officer's certification; reprimand or censure an officer; or deny certification of an officer. In an investigation that could result in such action, the bill requires the agency head or other appointing authority for the officer to provide all reports, documentation, transcripts, recordings, and other information to the Commission when requested. Five years after a revocation is effective, the bill allows an officer whose certificate has been revoked to petition the Commission to reinstate the certificate. If denied, the person can petition for reinstatement five years after the denial. Reinstatement proceedings will be conducted in accordance with the Kansas Administrative Procedure Act. The bill also removes suspended certificates from the provisions explained above, in part, concerning reinstatement of a certificate.

Further, the bill enacts provisions related to the confidentiality of communications within a "peer support counseling session" (session), which is defined as a session conducted by a peer support specialist that is called or requested in response to a critical incident or traumatic event involving the personnel of a law enforcement agency (agency) or emergency services provider (provider). "Peer support specialist" (specialist) is defined as a person who has been designated by an agency, provider, employee assistance program (EAP), or peer support team leader; is a member of a peer support team; and has received training in counseling and in providing emotional and moral support to law enforcement officers (officers) or emergency services personnel who have been involved in emotionally traumatic incidents due to their employment. The bill also defines other key terms.

The bill establishes that any communication made by a participant or specialist in a session and any oral or written information conveyed in or as the result of a session are confidential and may not be disclosed by any participant in the session. Such communication also is inadmissible in any judicial proceeding, administrative proceeding, arbitration proceeding, or other adjudicatory proceeding. Similarly, any communication relating to a confidential session made between specialists, specialists and the supervisors or staff of an EAP, or supervisors or staff of an EAP is confidential and disclosure is prohibited. These provisions apply only to sessions conducted by a specialist, and apply to all oral communications, notes, records, and reports arising out of a session. Notes, records, or reports arising out of a session will not be public records and will not be subject to the Kansas Open Records Act. This provision expires on July 1, 2020, unless reviewed and reenacted by the Legislature prior to that date.

Nothing in the bill limits the discovery or introduction into evidence of knowledge acquired by law enforcement or emergency services personnel from observation made or

material or information acquired during the course of employment that otherwise is subject to discovery or introduction into evidence. Additionally, the provisions do not apply to any:

- Threat of suicide or criminal act, or information conveyed relating to such threat, made by a session participant;
- Information relating to abuse of spouses, children, or the elderly, or other information required to be reported by law;
- Admission of criminal conduct;
- Disclosure of testimony by a participant who expressly consented to such disclosure; or
- Disclosure of testimony by the surviving spouse or executor or administrator of the estate of a deceased participant who received counseling services, when such surviving spouse or executor or administrator expressly consented to such disclosure.

The bill clarifies it does not prohibit any communications between specialists who conduct sessions or between specialists and the supervisors or staff of an EAP and does not prohibit communications between an EAP and an employer regarding fitness of an employee for duty.

Finally, the bill amends the definition of "law enforcement officer" in the Code of Criminal Procedure (referenced in the definition of "law enforcement personnel" in this bill) to include "community corrections officers."

Search and Rescue Teams; HB 2097

HB 2097 authorizes the State Fire Marshal to enter into contracts to establish regional search and rescue teams to respond to search and rescue incidents, and to appoint a Search and Rescue Advisory Committee.

The Search and Rescue Advisory Committee will meet periodically to provide input to the search and rescue program and act as advisors to the State Fire Marshal and the Director of the Division of Emergency Management. The Committee will be composed of one member or representative of each of the following:

- Each search and rescue region;
- Kansas Division of Emergency Management;
- Kansas National Guard/Crisis City;
- Kansas Fire and Rescue Training Institute; and
- Kansas Search and Rescue Dog Association.

Committee members receive *per diem* compensation and subsistence, mileage, and reasonable and necessary expenses as provided in KSA 75-3223.

The State Fire Marshal is authorized to adopt rules and regulations governing the composition, training requirements, response, and operations of the regional search and rescue teams.

Any member of a regional search and rescue team or regional hazardous materials response team contracting with the State Fire Marshal is included within an exemption under the Kansas Tort Claims Act in connection with authorized training or upon activation for an emergency response.

The Hazardous Materials Emergency Fund of the State Fire Marshal is redesignated as the Emergency Response Fund. Moneys in the Fund will be used to establish and maintain regional emergency response teams to provide a response to hazardous materials or search and rescue incidents, in addition to other authorized purposes. If the balance in the Emergency Response Fund falls below \$500,000, the State Fire Marshal may transfer from the Fire Marshal Fee Fund the amount necessary to return the balance in the Emergency Response Fund to \$500,000.

RETIREMENT

Working After Retirement; DROP Plan; Senate Sub. for HB 2095

Senate Sub. for HB 2095 makes revisions to the state's retirement system, pertaining to working-after-retirement provisions, and it authorizes the creation of a deferred retirement pilot program for the Kansas Highway Patrol (KHP).

Working After Retirement

The bill extends the working-after-retirement provisions of the Kansas Public Employees Retirement System (KPERs) for one year, from June 30, 2015, to June 30, 2016. Starting on July 1, 2016, and ending on July 1, 2021, a retiree may receive up to \$25,000 in compensation annually from a contributing KPERs employer, regardless of whether the retiree is returning to work for the same or a different employer, before the retiree must either terminate employment or forgo monthly KPERs benefits until the end of the calendar year. Under previous law, most retirees who returned to work for the same participating employer received up to \$20,000 in compensation before either terminating employment or forgoing monthly KPERs benefits until the end of the calendar year. The Joint Committee on Pensions, Investments and Benefits (Joint Committee) must periodically study the compensation limit, taking into account the effect of inflation and retirement data.

The compensation limit does not apply to the following retirees:

- Professional or practical licensed nurses who are employed at a state institution, including the Kansas Soldiers' Home or the Kansas Veterans' Home;
- Certain licensed school district employees (described in more detail below);
- Certified law enforcement officers who are employed by the Law Enforcement Training Center;
- Members of the Kansas Police and Firemen's Retirement System (KP&F) or the Retirement System for Judges;
- Substitute teachers or legislative officers, employees, or appointees;
- Elected city or county officers; and
- Individuals who are employed by or have accepted employment with a participating employer prior to May 1, 2015.

A participating employer that hires a retiree must pay to the Retirement System the employer contribution rate. However, employers of licensed nurses or certified law enforcement officers, as described above, also must pay the statutorily prescribed employee contribution rate, which is based on the retiree's compensation during the period of employment. Retirees may not receive additional credit for service while employed under the provisions of the bill. For retirees who are employed prior to May 1, 2015, any break in continuous employment or a move

to a different position during the period July 1, 2016, to July 1, 2021, is deemed new employment and subjects the retiree to the provisions of the bill.

A participating employer is permitted to appeal to the Joint Committee for a one-year hardship exemption for an unexpected vacant position with no active KPERS member to fill the vacancy. The bill authorizes the Joint Committee to grant extensions. The Joint Committee also may examine an employer's recruitment documentation.

Certain Licensed School District Employees Also Exempt

A school district may hire a retiree to fill a special teacher position or any of the top five hard-to-fill positions, which the State Board of Education determines. Re-employed retirees may receive full retirement benefits for up to 3 school years or 36 months, whichever would be less. During this period the school district pays to KPERS the actuarially determined employer contribution plus 8.0 percent. School districts must maintain documentation describing recruiting efforts to employ non-retirees in hard-to-fill positions.

A school district may appeal to the Joint Committee for a one-year extension of the exemption, which the Joint Committee is authorized to grant. The Joint Committee also may examine a school district's recruitment documentation. If a school district was found to have made insufficient efforts to hire non-retirees or if evidence was found of pre-arrangement between the school district and the retiree, the Joint Committee may revoke the exemption.

Pilot DROP Plan for Kansas Highway Patrol

The bill enacts the Kansas Deferred Retirement Option Program (DROP) within the KP&F for members of the KHP. Upon attaining normal retirement age, troopers, examiners, or officers of the KHP have the option of participating in the DROP plan for a minimum of three years and no more than five years. This is a one-time, irrevocable election. Participation in the DROP plan does not guarantee continued employment.

After electing to participate, a member's monthly retirement benefit, as determined by continuing law, is deposited into the member's DROP account for the duration of the DROP period. The DROP account accrues interest on an annual basis, ranging from 0 percent to 3.0 percent, subject to certain investment rate of return requirements. During the member's DROP period, the member remains in active service. Employer and employee contributions continue to be made to KP&F, but the member does not earn any additional service credit after the effective date of the DROP election. If a member fails to subsequently participate in the DROP plan for a minimum of three years, all of the member's interest credits are forfeited. However, a disabled member does not forfeit interest earned. At the end of the DROP period, a member is entitled to a distribution from the DROP account, which either may be rolled over into an eligible retirement plan or taken out as a lump-sum distribution.

The DROP Plan takes effect on January 1, 2016, and sunsets on January 1, 2020.

KP&F Definitions, Eligibility for Benefits; Senate Sub. for HB 2101

Senate Sub. for HB 2101 defines "police," "policeman," and "policemen," as those terms are used in the statutes relating to the Kansas Police and Firemen's (KP&F) Retirement

System, to mean individuals who have been certified by the Kansas Law Enforcement Training Center and assigned to a police department, whose duties include engagement in the enforcement of law, who have been designated by their employer as a police officer, and for whom contributions have been made to the KP&F Retirement System. Individuals covered by the bill are not to be denied benefits because of a temporary or full-time assignment to a jail, adult detention center, or other correctional facility. The bill applies retroactively to July 1, 1999.

STATE FINANCES

FY 2015 Rescission Bill; House Sub. for SB 4

House Sub. for SB 4 contains current year adjustments for FY 2015 expenditures and current year revenue. The bill increases expenditures by \$120.2 million, including \$45.1 million from the State General Fund. The bill also deletes authority for three bond issuances totaling \$90.7 million for the Regents Institutions. The bill also includes transfers and State General Fund reductions to the Legislative and Judicial Branches from the Governor's December 9, 2014, allotment plan that require Legislative approval.

The bill adds \$106.6 million, including \$46.2 million from the State General Fund, to fully fund Human Services Consensus Caseload estimates, adds \$2.9 million from the State General Fund for technical education tuition, and \$2.5 million from the State General Fund for Department of Administration—Office of Information Technology Services to reimburse the federal government for various expenditures.

The bill also includes State General Fund transfer adjustments in FY 2015 totaling \$247.7 million. The largest transfers are \$158.5 million from the State Highway Fund, \$55.0 million from the Medical Program Fees Fund, \$12.0 million from the Kansas Endowment for Youth Fund, and a reduction of \$7.1 million in the transfer to the Job Creation Program Fund.

State Budget; House Sub. for SB 112, House Sub. for SB 4, House Sub. for SB 7, and HB 2005

House Sub. for SB 112, House Sub. for SB 4, House Sub. for SB 7, and HB 2005 includes funding for claims against the state; Fiscal Year (FY) 2015, FY 2016 and FY 2017 expenditures for most state agencies; and FY 2016 and FY 2017 capital improvements for selected state agencies.

House Sub. for SB 7, the Education Budget Block Grant bill, reduced State General Fund expenditures by \$19.6 million in FY 2015. The bill increased expenditures from the Governor's recommendation by \$106.8 million, including \$61.1 million from the State General Fund, in FY 2016 and increased expenditures by \$129.1 million, including \$83.4 million from the State General Fund, in FY 2017.

HB 2005, the Judicial Branch Budget bill, increased expenditures from the Governor's recommendation by \$6.1 million, all from the State General Fund, for FY 2016 and \$10.8 million, all from the State General Fund, for FY 2017. (This bill is summarized later in this section.)

FY 2015

The approved FY 2015 budget totals \$15.5 billion, including \$6.3 billion from the State General Fund. The approved budget is a reduction of \$18.4 million, or 0.1 percent, from all funding sources, including \$15.3 million, or less than 0.1 percent, from the State General Fund, below the Governor's recommended expenditures. FTE positions decrease 4.0 full-time equivalent (FTE) positions below the Governor's recommendation, primarily due to the deletion of 8.0 vacant positions in the Office of State Fire Marshal and 1.0 position in the Department of Corrections, partially offset by the addition of 5.0 FTE positions in the Kansas Racing and Gaming Commission for gaming machine examinations. The approved budget deletes \$19.6 million, all from the State General Fund, for new K-12 Education block grants and \$500,000, all

from the State General Fund, from the Department of Corrections for juvenile out-of-home placements. The reduction is partially offset by increases of \$3.7 million, all from the State General Fund, to the Department of Education for capital outlay state aid and supplemental state aid payments and \$750,000, all from the State General Fund, to the Board of Regents to partially restore the allotment to the technical education program. The FY 2015 approved budget provides for a State General Fund balance of \$73.4 million, or 1.2 percent, of State General Fund expenditures.

FY 2016

The approved FY 2016 totals \$15.4 billion, including \$6.4 billion from the State General Fund. The approved budget is an increase of \$118.7 million, or 0.7 percent from all funding sources, above the Governor's recommendation, partially offset by a State General Fund decrease of \$9.9 million, or less than 0.1 percent. FTE positions were decreased by 31.0 FTE positions below the Governor's recommendation. In addition, the approved budget reduces State General Fund receipts by \$22.2 million for FY 2016. The approved budget provides for a State General Fund balance of negative \$348.2 million, or 5.5 percent, of state expenditures. Projected additional revenue provides for a State General Fund balance of \$86.3 million, or 1.4 percent, of State General Fund expenditures.

The approved adjustments to the Governor's FY 2016 recommendations include these:

- Adjusted for the new spring estimate for all human services caseloads, which was included as part of the Governor's Budget Amendment (GBA) of April 23, is an **all funds decrease of \$58.6 million and an increase of \$3.8 million from the State General Fund**, as compared to the Governor's recommended budget. The estimate for the Temporary Assistance to Needy Families program is a decrease of \$703,000 all from federal funds. The number of families receiving services is expected to decrease at a faster rate than Overview of House Sub. for SB 112 - Mega/Omnibus Appropriations Bill 1 reported had been anticipated in the fall estimate. Expenditures for foster care are increased by \$3.8 million from all funding sources, including \$16.7 million from the State General Fund. The increase in all funds is attributable to an increase in the cost of the contract, while the number of children anticipated to be in the foster care system is unchanged from the fall estimate. The current estimate for FY 2016 includes the addition of \$12.0 million, all from the State General Fund, to provide for adequate cash flow for the program. The estimate for **Department of Corrections/Juvenile Services** out-of-home placements is decreased by \$1.3 million, including \$400,000 from the State General Fund, based on fewer children in the program;
- Added \$106.8 million, including \$61.1 million from the State General Fund, for new K-12 Education block grants (**House Sub. for SB 7**);
- Added \$26.0 million, all from the State General Fund, to reflect the difference between the Governor's original estimate of savings for bonding \$1.5 billion in Kansas Public Employees Retirement System (KPERS) unfunded liability with SB 228, as passed, which bonds \$1.0 billion. The bill, as passed, reduces State General Fund expenditures by \$13.6 million in FY 2016;

- Added \$18.7 million, all from the State General Fund, to reject GBA No. 1, Item 7 for the Health Care Access Improvement Fund for the increase in the health care provider assessment from 1.83 percent to 2.55 percent for FY 2016;
- Added \$17.5 million, all from the State General Fund, to ensure the block grant general state aid to school districts remains as estimated in Senate Sub. for HB 7 for FY 2016;
- Added \$6.1 million, all from the State General Fund, for the **Judiciary** budget (**HB 2005**);
- Added \$3.0 million, all from the State General Fund, for the **Legislature** to procure professional consulting services to assist in a review and evaluation of state government, examining agency core functions, procedures, and efficiencies for FY 2016;
- Added \$750,000, all from the State General Fund, for the Incentive for Technical Education for FY 2016;
- Added \$770,000, all from the State General Fund, for a new forensic program at **Washburn University** for FY 2016;
- Added \$500,000, all from the State General Fund, for operational expenditures at **Osawatomie State Hospital** for FY 2016;
- Deleted \$11.3 million, all from the State General Fund, to suspend employer contributions to the KPERs Group Insurance Fund, or Death and Disability Fund, for the final seven pay periods for FY 2016;
- Deleted \$62.0 million, including \$133.4 million from the State General Fund, and added \$44.3 million for the Medical Assistance Fund to adjust funding to implement the health maintenance organization (HMO) privilege fee changes at 3.31 percent (see Senate Sub. for HB 2281) and reduced State General Fund revenue for the proposed managed care organization (MCO) privilege fee by \$29.2 million; and
- Deleted \$1.2 million, all from the State General Fund, for estimated savings in the **Department of Corrections** for implementation of HB 2051, which increases the amount of program credit any offender can earn from 60 days to 90 days for FY 2016.

FY 2017

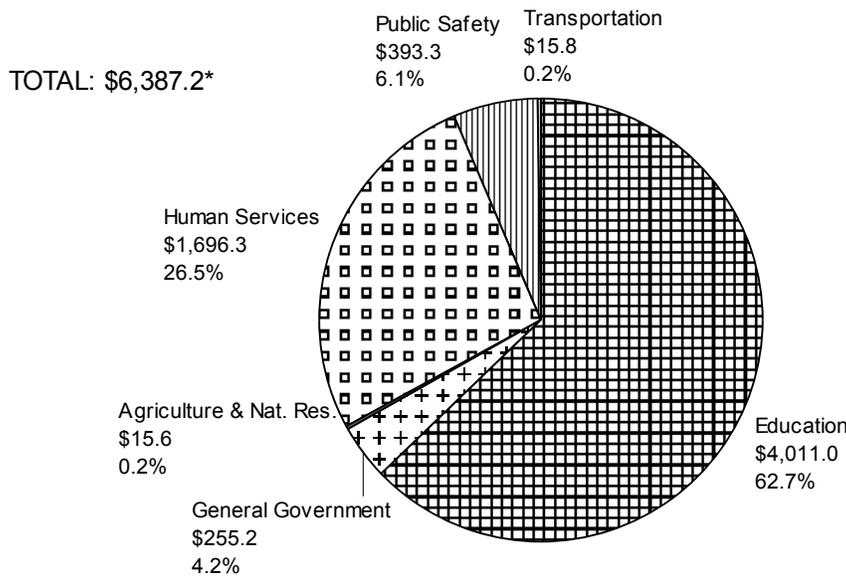
The approved FY 2017 totals \$15.8 billion, including \$6.4 billion from the State General Fund. The approved budget is an increase of \$150.5 million, or 0.9 percent, from all funding sources, including a State General Fund increase of \$22.3 million, or 0.1 percent, above the Governor's recommendation. FTE positions were decreased by 31.0 FTE positions below the Governor's recommendation. The approved budget provides for a State General Fund balance of negative \$290.5 million, or 4.5 percent, of state expenditures. Projected additional revenue provides for a State General Fund balance of \$200.9 million, or 3.1 percent, of State General Fund expenditures.

The approved adjustments to the Governor's FY 2017 recommendations include these:

- Adjusted for the new spring estimate for all human services caseloads, which was included as part of the GBA of April 23, an **all funds decrease of \$71.0 million from all funding sources and \$6.4 million from the State General Fund**, as compared to the Governor's recommended budget. The estimate for the Temporary Assistance to Needy Families program is a decrease of \$503,000 all from federal funds. The number of families receiving services is expected to decrease at a faster rate than had been anticipated in the fall estimate. Expenditures for foster care are increased by \$7.1 million from all funding sources and \$7.5 million from the State General Fund. The increase in all funds is attributable to an increase in the cost of the contract and a slight increase in the number of children anticipated to be in the foster care system. The estimate for the **Department of Corrections/Juvenile Services** out-of-home placements is increased by \$224,000, including \$154,000 from the State General Fund, to reflect a slightly higher cost per child;
- Added \$129.1 million, including \$83.4 million from the State General Fund, for new K-12 Education block grants (**House Sub. for SB 7**);
- Added \$57.3 million, all from the State General Fund, to reflect the difference between the Governor's original estimate of savings for bonding \$1.5 billion in KPERS unfunded liability and SB 228 as enacted, which bonds \$1.0 billion in liability. The bill as passed reduces State General Fund expenditures by \$35.6 million in FY 2017;
- Added \$18.7 million, all from the State General Fund, to reject GBA No. 1, Item 7 for the Health Care Access Improvement Fund for the increase in the health care provider assessment from 1.83 percent to 2.55 percent for FY 2017 (see Senate Sub. for HB 2281);
- Added \$10.8 million, all from the State General Fund, for the **Judiciary** budget (**HB 2005**);
- Added \$750,000, all from the State General Fund, for the Incentive for Technical Education for FY 2017;
- Added \$770,000, all from the State General Fund, for a new forensic program at **Washburn University** for FY 2017;
- Added \$500,000, all from the State General Fund, for operational expenditures at **Osawatomie State Hospital** for FY 2017;
- Deleted \$59.2 million, including \$136.6 million from the State General Fund, and added \$51.5 million from the Medical Assistance Fee Fund, adjusted funding to implement the HMO privilege fee changes at 3.31 percent, and reduced State General Fund revenue for the proposed MCO privilege fee by \$30.5 million;

- Deleted \$13.6 million, including \$11.5 million from the State General Fund, to suspend employer contributions to the KPERS Group Insurance Fund, or Death and Disability Fund, for the final seven pay periods for FY 2017;
- Deleted \$2.5 million, all from the State General Fund, in the **Department of Corrections** budget for estimated savings for implementation of HB 2051 for FY 2017; and
- Added language limiting Regents institutions tuition increase at the revised 2016 school year rate adding the Consumer Price Index plus 2.0 percent for FY 2017.

**FY 2016 Approved State General Fund Budget
by Function of Government
(Dollars in Millions)**



* NOTE: Total state expenditures do not include \$15.0 million in statewide information technology savings.

Judicial Branch—FY 2016 and FY 2017 Appropriations, Electronic Filing and Management Fund, Docket Fee Fund, Judicial Branch Surcharge Sunset Extension, Dispositive Motion Filing Fee; HB 2005

HB 2005 appropriates \$131.2 million, including \$101.9 million from the State General Fund (SGF) in fiscal year (FY) 2016, and \$138.5 million, including \$105.7 million from the State General Fund, in FY 2017, all from the State General Fund, for Judicial Branch operations. Additionally, the bill creates or amends law related to docket fees, dispositive motion filing fees, and the Electronic Filing and Management Fund.

The provisions of the bill are non-severable internally and non-severable from the provisions of 2014 Senate Sub. for HB 2338, unless the appropriations to the Judicial Branch for FY 2016 or FY 2017 are reduced below the amounts appropriated in the bill by another act of the 2015 or 2016 regular session of the Legislature.

Appropriations

FY 2016. The bill appropriates \$131.2 million, including \$101.9 million from the State General Fund (an SGF reduction of \$18.0 million, or 12.3 percent, from the FY 2016 Judicial Branch budget request). The bill adds \$5.2 million, all from the State General Fund, to the FY 2016 Governor's recommendation. The bill extends the authority from FY 2015 into FY 2016 for the Chief Justice to transfer funds from the Electronic Filing and Management Fund to the Judicial Branch Docket Fee Fund with notice provided to the Director of Legislative Research.

Major changes include:

- An increase of \$3.5 million, all from the State General Fund, for reduced docket fee and DUI Reinstatement Fee revenue in FY 2016;
- An increase of \$2.5 million, all from the State General Fund, for employer retirement contributions and other fringe benefit costs;
- An increase of \$156,000 for contractual services expenditures for in-state travel, training, and Office of Information Technology Services (OITS) fees; and
- A reduction of \$1.1 million, including \$882,275 from the State General Fund, for implementation of SB 228, which reduces employer contributions for employee retirement.

FY 2017. The bill appropriates \$138.5 million, including \$105.7 million from the State General Fund (an SGF reduction of \$20.9 million, or 13.1 percent, from the FY 2017 Judicial Branch budget request). The bill adds \$9.0 million, all from the State General Fund, to the FY 2017 Governor's recommendation.

Major changes include:

- An increase of \$4.5 million, all from the State General Fund, for reduced docket fee and DUI Reinstatement Fee revenue;
- An increase of \$2.1 million, all from the State General Fund, for employer retirement contributions and other fringe benefit costs;
- An increase of \$4.1 million, all from the State General Fund, for expenditures related to the 27th payroll; and
- A reduction of \$2.1 million, including \$1.8 million from the State General Fund, for implementation of SB 228, which reduces employer contributions for employee retirement.

Statutory Fee and Fund Provisions

The bill extends for two years, until June 30, 2017, the Judicial Branch surcharge the Legislature authorized in 2010 Senate Sub. for HB 2476 to fund non-judicial personnel.

The bill also extends, from 2017 to 2018, a provision directing the first \$3.1 million collected in docket fee revenues to the Electronic Filing and Management Fund, and delays, from 2018 until 2019, a provision reducing this amount to \$1.0 million.

The bill creates a dispositive motion filing fee of \$195 and defines “dispositive motion” to include a motion to dismiss, a motion for judgment on the pleadings, a motion for summary judgment or partial summary judgment, or a motion for judgment as a matter of law. The fee will be applied to any motion seeking any of these dispositions, regardless of the title of the motion. The fee will not apply in limited actions under Chapter 61 (Kansas Statutes Annotated), and the State of Kansas and municipalities are exempt from paying the fee. The fee may be taxed as a cost, and a poverty affidavit is allowed in lieu of the fee.

The bill strikes the previously-existing filing fee for motions for summary judgment.

(Note: The bill appears to raise the docket fee for a petition for expungement, but this change is continuing law, enacted by 2014 Senate Sub. for HB 2338 and included in this bill to reconcile different versions of the statutes in which the provision appears.)

Executive Branch Authority to Lapse or Transfer Certain FY 2016 Appropriations; Senate Sub. for HB 2135

Senate Sub. for HB 2135 authorizes the Director of the Budget, if the Director determines the unencumbered ending balance of the State General Fund (SGF) for FY 2016 will be less than \$100 million, to lapse appropriations or transfer funding from special revenue funds to the SGF, up to a total of \$100 million, for FY 2016. This authority does not apply to appropriations for the Judicial Branch; Legislative Branch agencies; debt service; employer contributions to the Kansas Public Employees Retirement System; the Department of Education, except the operating expenditures account of the SGF; or demand transfers to the school district capital improvements fund.

STATE GOVERNMENT

State Employee Furlough Designation; House Sub. for SB 11

House Sub. for SB 11 directs the Secretary of Administration to designate all state employees as essential for the purposes of Kansas Administrative Regulation 1-14-11(a) from June 5, 2015, through *sine die* of the 2015 legislative session. Essential employees are not subject to either emergency or administrative furlough.

Kansas Disaster Utilities Response Act; SB 109

SB 109 creates the Kansas Disaster Utilities Response Act.

Out-of-state businesses conducting operations within the state for disaster or emergency-related work are not considered to have established a level of presence requiring registration, licensing, or filing or remitting state or local taxes. Similarly, out-of-state employees are not considered to have established residency in the state that would require the employee or the employee's employer to file and pay state income taxes. However, out-of-state businesses and employees are required to pay transaction taxes and fees on purchases for use or consumption in the state during the disaster response period, unless otherwise exempted.

Out-of-state businesses and employees that remain in the state after the disaster response period are subject to the state's normal standards for residency or doing business in the state and are responsible for tax requirements or obligations and registration, licensing, or filing requirements.

Upon request of the Kansas Department of Revenue (KDOR), the out-of-state business or its affiliate that enters the state is required to provide a written statement that the business is in the state for disaster or emergency-related purposes. An annual record of all declared state disasters and emergencies is to be maintained by the KDOR, and the agency is authorized to promulgate any necessary rules and regulations to implement the Act.

Land Purchases; SB 120

SB 120 exempts the Kansas Department of Wildlife, Parks and Tourism (KDWPT) from law regarding certain land purchases in four counties. The bill also amends law regarding purchase of tracts of land throughout the state.

Prior law stated the purchase of land greater than 320 acres in the aggregate by the KDWPT must be approved by the Legislature. The bill lowers that amount from 320 acres to 160 acres. In addition, the bill exempts KDWPT from that limit only for land purchases less than 640 acres, purchased with Natural Resource Damage and Restoration funds, in Cherokee, Crawford, Labette, and Neosho counties.

Reorganization—Medicaid Eligibility and Foster Care Licensing; ERO 43

ERO 43 Executive Reorganization Order (ERO) No. 43 transfers Medicaid eligibility processing responsibility from the Kansas Department for Children and Families (DCF) to the

Kansas Department of Health and Environment (KDHE), effective January 1, 2016. The ERO also transfers foster care licensing duties from KDHE to DCF, effective July 1, 2015.

The ERO deems, beginning on January 1, 2016, all powers, duties, and functions of the DCF Economic and Employment Services Section that determines eligibility for Medicaid services are transferred to and imposed upon KDHE and the Secretary of Health and Environment. KDHE shall be the successor to the powers, duties, and functions of DCF concerning duties and functions of the DCF Economic and Employment Services Section that determines eligibility for Medicaid services and eligibility for services for state-funded medical services and have the same force and effect as if performed by DCF in which such powers, duties, and functions were vested prior to January 1, 2016. Rules and regulations authority, account balances, property and property rights, and liability regarding Medicaid eligibility will be transferred from DCF to KDHE.

The ERO also deems, beginning on July 1, 2015, all the powers, duties, and functions of the KDHE Division of Public Health, Bureau of Family Health, Child Placing Agency and Residential Facilities Section which licenses and regulates foster care and other residential facilities are transferred to and imposed upon DCF and the Secretary for Children and Families. DCF shall be the successor to the powers, duties, and functions of the Bureau of Family Health, Child Placing Agency and Residential Programs Section and have the same force and effect as if performed by KDHE in which the same powers, duties, and functions were vested prior to July 1, 2015. Rules and regulations authority, account balances, property and property rights, and liability regarding foster care licensing will be transferred from KDHE to DCF.

Any conflict that arises regarding the transfers described above will be resolved by the Governor, whose decision will be final. Finally, the ERO speaks to the status of lawsuits or other proceedings, status of related criminal actions, and other details regarding the transfer of KDHE and DCF officers and employees.

Criminal History Checks for Persons Contracted to Work with the Legislative Division of Post Audit; HB 2009

HB 2009 allows the Legislative Division of Post Audit to require persons who contract to work with or work under the direction of the Post Auditor to be fingerprinted and submit to a state and national criminal history record check. The information can be used to verify the identification of such persons and to determine their qualifications and fitness to work with the Division in any capacity. If offered a position of employment, the bill requires written notice that a criminal history check is required, as well as written notice if the criminal history information is used to disqualify a person from employment or a contract offer. The bill requires local law enforcement officers and agencies to assist in the taking and processing of fingerprints and allows them to charge a fee as reimbursement for expenses incurred.

Information Technology Audits; HB 2010

HB 2010 requires the Legislative Division of Post Audit (LPA) to conduct information technology audits, as directed by the Legislative Post Audit Committee, and establishes the Office of Information Technology Services (OITS) as a separate state agency for budgetary purposes. The OITS budget will be submitted separately from the Department of Administration budget.

Information technology audit work could include assessment of security systems and continuous audits of ongoing information technology projects of any state agency or entity subject to financial or performance compliance audit requirements in law (e.g., local subdivisions of government or agencies that receive money from or through the State, persons who receive grants or gifts from or through the State, and persons regulated or licensed by a state agency who operate for the benefit of a state institution, with the exception of utilities).

The bill also authorizes the LPA to communicate the findings of these audits, outside of the regularly scheduled meetings, to the Legislative Post Audit Committee, the Joint Committee on Information Technology, and the governmental branch Chief Information Technology Officers in certain circumstances.

Continuation of Exceptions to the Kansas Open Records Act; HB 2023

HB 2023 continues in existence the following exceptions to the Kansas Open Records Act (KORA):

- KSA 17-2036, concerning income tax return extension applications submitted to the Secretary of State;
- KSA 40-5301, concerning records, data, and information of the Interstate Insurance Product Regulation Compact;
- KSA 45-221(a)(45), concerning records, which, if disclosed, would pose a substantial likelihood of revealing certain security measures;
- KSA 45-221(a)(46), concerning information and materials received by a county Register of Deeds from military discharge papers;
- KSA 45-221(a)(49), concerning an individual's contact information given to a public agency to receive widely distributed agency notifications or communications;
- KSA 48-16a10, concerning information obtained pursuant to the Radon Certification Law;
- KSA 58-4616, concerning certain records retained by the unit owner association of a common interest community;
- KSA 60-3351, concerning self-evaluative audit documents submitted to and in the possession of the Insurance Commissioner (the bill also would remove a July 1, 2015, sunset for language specifying self-evaluative audit documents are not subject to any disclosure or production under KORA);
- KSA 72-972a, concerning due process complaint notices filed under the Special Education for Exceptional Children Act;
- KSA 74-50,217, concerning the contents of forms completed pursuant to the Promoting Employment Across Kansas Act;

- KSA 74-99d05, concerning certain records of the Kansas Electric Transmission Authority, which, if disclosed, would be harmful to the competitive position of third parties or to the security of transmission facilities; and
- KSA 75-53,105, concerning criminal history record information obtained by the Secretary for Children and Families for the purpose of determining initial and continuing qualification for employment or participation in a program for the placement, safety, protection, or treatment of vulnerable children or adults.

Kansas Uniform Securities Act; HB 2106

HB 2106 makes several amendments to the Kansas Uniform Securities Act (Act). The first amendment, concerning exemptions from securities registration requirements, states nothing in the statutory section governing denial, suspension of the application of, condition, limit, or revocation of an exemption should be construed to exempt a person from the relevant anti-fraud provisions, nor should any existing exemption be construed to provide relief from any other provision of the Act if the sale of the security violates the provisions of the anti-fraud statute.

Further, the bill amends the law governing criminal penalties of the Act, which often are based on the amount lost as a result of the violation. The bill clarifies that when amounts are obtained in violation of the Act under one scheme or continuing course of business, whether from the same or several sources, the conduct can be considered one continuing offense and the amounts aggregated in determining the grade of the offense.

If a crime under the Act is a continuing offense, the bill specifies the statute of limitations does not begin to run until the last act in the scheme or course of business is completed. The bill states this does not prevent the exclusion of a time period as has been provided by statute.

The bill also adds a section to the Kansas Code of Criminal Procedure to allow business records obtained pursuant to the investigative authority of the Office of the Securities Commissioner to be admissible in evidence at any preliminary examination in the same manner and with the same force and effect as if the individuals who made the record and the record custodian who keeps the record had testified in person.

Kansas Open Records Act—Enforcement, Exceptions; Kansas Open Meetings Act—Enforcement; HB 2256

HB 2256 creates and amends law related to the enforcement of the Kansas Open Records Act (KORA) and Kansas Open Meetings Act (KOMA.) The bill also adds exceptions to KORA.

Enforcement of KORA and KOMA

(Note: KOMA applies to a “public body or agency,” while KORA applies to a “public agency.” When describing provisions of this bill that are substantially similar between the KORA and KOMA versions, this summary uses the term “public agency” where “public agency” is used in the KORA version and “public body or agency” is used in the KOMA version.)

The bill allows the Attorney General to determine, by a preponderance of the evidence after investigation, that a public agency has violated KORA or KOMA, and allows the Attorney General to enter into a consent order with the public agency or issue a finding of violation to the public agency prior to filing an action in district court.

A consent order may:

- Contain admissions of fact;
- Require completion of training approved by the Attorney General;
- Impose a civil penalty of up to \$250 for each violation; and
- Set forth the public agency's agreement to comply with the requirements of KORA or KOMA.

The consent order must be signed by the head of the public agency, any officer found to have violated KORA or KOMA, and any other person required by the Attorney General. For a KORA violation, if the public agency is a governing body, all members of the governing body must sign the order.

A finding of violation may contain findings of fact and conclusions of law and require the public agency to do any or all of the following:

- Cease and desist from further violation;
- Comply with KORA or KOMA provisions;
- Complete training approved by the Attorney General; and
- Pay a civil penalty of up to \$500 for each violation.

The Attorney General may require submission of proof that requirements of a consent order or finding of violation have been satisfied.

The Attorney General may apply to the district court to enforce a consent order or finding of violation, after making a demand to the public agency to comply and giving the public agency a reasonable opportunity to cure the violation. Such enforcement action may be filed in the district court of the county where the consent order or finding of violation is issued or is effective, and district courts are given jurisdiction over such enforcement actions. In an action involving KORA, the court is allowed to view the records in controversy *in camera* before reaching a decision. If the court finds the Attorney General did not abuse the Attorney General's discretion in entering into the consent order or issuing the finding of violation, the court shall enter an order:

- Enjoining the public agency to comply with the consent order or finding of violation;
- Imposing a civil penalty not less than the amount ordered by the Attorney General and not more than \$500 for each violation;
- Requiring the public agency to pay the Attorney General's court costs and costs incurred in investigating the violation; and

- Providing any other remedy authorized by KORA or KOMA that the court deems appropriate.

If the court finds a violation, it may require the public agency to pay the Attorney General's reasonable attorney fees. Payment of such fees is required if the violation was not made in good faith and was without a reasonable basis in fact or law.

The bill provides specific requirements for service of a finding of violation on a public agency and requires the Attorney General to maintain and make available for public inspection all consent orders and findings of violation.

In lieu of filing an action in district court to enforce KORA or KOMA, the bill allows the Attorney General or a county or district attorney to accept a consent judgment with respect to any act or practice violating KORA or KOMA. A consent judgment must be approved by the district court and an entry of judgment must be made. After approval, any breach of the conditions of the consent judgment will be treated as a violation of a court order and subject to the penalties for such violations. A consent judgment may contain any remedy available to the district court except for an award of reasonable expenses, investigation costs, or attorney fees. For a KORA violation, the consent judgment may include a stipulation regarding the production of the requested records, subject to any permissible redactions as described in the consent judgment.

Any KORA or KOMA complaint submitted to the Attorney General must be on a form prescribed by the Attorney General setting forth the facts the complaining party believes show a violation. The complaining party must attest to the facts under penalty of perjury.

The bill creates, in the State Treasury, the Attorney General's Open Government Fund (Fund) to be used to carry out the provisions and purposes of KORA and KOMA. All civil penalties, expenses, costs, and attorney fees awarded in an action brought by the Attorney General pursuant to KORA or KOMA, or pursuant to a consent order or finding of violation under the provisions of the bill, will be credited to the Fund. The bill redirects from the State General Fund to the Fund civil penalties recovered by the Attorney General under KORA and KOMA.

The bill requires the Attorney General, subject to appropriations, to provide and coordinate KORA and KOMA training throughout the state and allow the Attorney General to consult and coordinate with appropriate organizations to provide training. The Attorney General may establish and make available a computerized training program and may approve training programs that satisfy requirements imposed by the district court or by any order or judgment pursuant to KORA or KOMA.

The Attorney General is given authority to adopt rules and regulations to implement and administer KORA and KOMA.

The bill amends the statutes governing civil KORA and KOMA remedies to add declaratory judgments to the orders that a district court may use to enforce KORA and KOMA and to allow a district court to require a defendant to complete training approved by the Attorney General. A provision is added allowing the court to award the Attorney General or the county or district attorney reasonable expenses, investigation costs, and attorney fees if the court finds a violation. Such award will be required if the court determines the violation was not in good faith and without reasonable basis in fact or law. A provision specifying the burden of proof is on the public agency is added for KORA.

Statutes governing investigations of alleged KORA or KOMA violations are amended to allow the Attorney General or county or district attorney to subpoena, examine, or cause to be examined records and administer oaths and affirmations. Specific requirements for service of interrogatories or subpoenas were added. The bill adds provisions allowing the Attorney General or county or district attorney, when a person willfully fails or refuses to respond to a request for information, records, or other materials; respond to interrogatories; or obey a subpoena to apply to the district court for an order requiring a response or compliance. The district court is given authority to issue such orders or grant other relief as required until a response is provided or the person complies.

For KORA investigations, the bill adds a provision prohibiting the Attorney General or county or district attorney from further disclosing a record or document, or the contents of such, if a public agency claims in writing that such record or document is exempt from disclosure. Such records or documents may be disclosed by order of a district court in enforcing KORA. Such records or documents in the possession of the Attorney General or a county or district attorney are not subject to a KORA request or to discovery, subpoena, or other process.

KORA Exceptions

The bill adds exceptions to KORA for records of a public agency on a public website that are searchable by a keyword search and identify the home address or home ownership of a municipal judge, city attorney, assistant city attorney, special assistant city attorney, special assistant U.S. attorney, special assistant attorney general, special assistant county attorney, or special assistant district attorney.

Eligibility Requirements for Temporary Assistance for Needy Families, Child Care Assistance, and Food Assistance; Senate Sub. for HB 2258

Senate Sub. for HB 2258 places the authorization of the Temporary Assistance for Needy Families (TANF) program in statute rather than by rule and regulation, which had been used to establish the program. The bill also modifies and creates certain definitions and requirements pertaining to child care, TANF assistance, and food assistance programs. It repeals certain sections of law that authorize the KanWork Act and general assistance. In addition, the bill requires an electronic check for any false information provided on an application for TANF or other programs by the Department for Children and Families (DCF). DCF is required to maintain sufficient staffing to conduct work program case management services in a timely manner.

Definitions

“Assistance” is redefined to include food assistance and not food stamps or coupons; reference to the provision of institutional care also is omitted from the term. “Aid to Families with Dependent Children” (AFDC) is renamed “Temporary Assistance for Needy Families,” and the new name replaces AFDC where it appears in law. The uses of TANF are broadened to include meeting the needs of a qualifying caretaker of a dependent child. The definition of “dependent children” omits reference to a child who is deprived of parental or guardian support or care, a full-time student in a vocational or technical program, and expected to complete the training prior to turning 19 years old; the definition makes reference to children in the care of biological or adoptive parents or those persons appointed by a court to provide care. Reference to “blood relative” is omitted from the definition, as well. The bill also repeals the authority of the Secretary

for Children and Families (Secretary) to extend by rule and regulation the deprivation of care requirement to children of parents or guardians who have been unemployed.

Definitions for “general assistance” and “transitional assistance” are deleted, and the term “TANF diversion assistance” means a one-time voluntary payment option in lieu of ongoing TANF assistance, designed to meet a crisis that endangers an applicant’s ability to remain in or accept employment. A household which has a recipient accepting TANF diversion assistance is ineligible to receive on-going TANF assistance for 12 months following the payment of diversion assistance. The recipient may receive a maximum of 42 months of TANF cash assistance during a lifetime if the recipient has received a diversion payment. A hardship extension of no more than 12 months may be granted at the discretion of the Secretary.

TANF Assistance and Requirements

On and after January 1, 2017, DCF is required to conduct an electronic check for false information on an application for TANF and other benefits programs administered by DCF.

General eligibility for federal assistance is revised to include reference to cohabiting partners in addition to a husband and wife living together. The husband and wife, or cohabiting partners, are required to register for work in accordance with criteria set by the Secretary by rule and regulation. A family group is ineligible for TANF if one household member has received the maximum number of months of TANF assistance under state law. When determining eligibility for federally funded assistance, the Secretary considers the equity owned in any boat, personal water craft, recreational vehicle, or all-terrain vehicle, as those terms are defined by law. An additional motor vehicle used by the applicant or the applicant’s spouse or cohabiting partner for the primary purpose of making income may be considered exempt personal property at the discretion of the Secretary. The Secretary had been required to consider the value of additional motor vehicles owned with one vehicle exempted as personal property.

All adults applying for TANF are required to complete a work program assessment as specified by DCF. This includes adults who were previously disqualified or denied TANF due to non-cooperation (which the bill defines), drug testing, or fraud. Adults who are ineligible aliens or receiving Supplemental Security Income are not required to complete the assessment process. An adult is exempt from the work program assessment if the applicant can demonstrate:

- An existing certification verifying completion of the work program assessment;
- A valid offer of employment or is employed a minimum of 20 hours a week;
- The individual is a parenting teen without a GED or high school diploma;
- Enrollment in Job Corps;
- Working with a refugee social services agency; or
- Completion of the work program assessment within the past 12 months.

Recipients are limited over a lifetime to receiving 36 months of TANF assistance. The bill allows for hardship assistance during an additional 12 months if the Secretary finds the recipient to be:

- The caretaker of a disabled family member living in the household;
- Disabled, which precludes long-term employment or requires substantial rehabilitation;
- Needing to overcome the effects of domestic violence or sexual assault;
- Involved with prevention and protection services and has an open social service plan; or
- Experiencing an extreme hardship, as determined by an executive review team.

In order to meet mandatory work participation requirements, households are required to work at least 30 hours per week, which includes 20 hours of primary components and 10 hours of secondary components in one-parent households where the youngest child is 6 years of age or older. In two-parent households, participation hours are 55 hours, with 35 hours per week if child care is not used. The maximum assignment per week per individual is 40 hours.

To meet federal work participation requirements, the following work participation is required:

- For two-parent families:
 - Both parents are required to participate in a combined total of 55 hours per week, 50 hours of which must be in primary components; or
 - One or both parents may be assigned a combined total of 35 hours per week, including 30 hours of primary components, if child care paid by DCF is not provided.
- For single-parent families with a child under the age of 6, the parent is required to engage in work or work activities for at least 20 hours per week in a primary work component.

Primary components include full- or part-time employment, apprenticeship, work study, self-employment, Job Corps, subsidized employment, work experience sites, on-the-job training, supervised community service, vocational education, and job search and readiness. Secondary components include job skills training, education directly related to employment, and completion of a GED or high school diploma.

A parent or other caretaker with a child less than three months of age is not required to engage in work participation. The three-month limitation does not apply to a parent or other caretaker personally providing care for a child born significantly prematurely, with serious medical conditions or with a disability as defined by the Secretary, in consultation with the Secretary of Health and Environment, and adopted in rules and regulations. Under certain conditions, the exemption from work participation for caring for a child under three months may not apply.

Work experience placements are reviewed after 90 days and are limited to 6 months per 48-month lifetime limit. However, client progress is reviewed prior to each placement. TANF participants with disabilities are required to engage in employment activities to the maximum extent consistent with their abilities.

If a TANF participant or a recipient for child care subsidies engages in non-cooperation, which the bill defines, the penalty for the first instance is for three months; for a second penalty, six months; for a third penalty, one year; and for a fourth or subsequent penalty, ten years. Individuals who have not cooperated without good cause with child support services are ineligible to participate in the food assistance program. If an individual is found to have committed TANF or child care fraud or found guilty of theft on or after July 1, 2015, all adults in the family unit are ineligible for TANF assistance for a lifetime. In that case, households are required to name a protective payee, which the Secretary approves, to receive TANF payments or food assistance on behalf of the children.

No TANF cash assistance is available for use to purchase alcohol, cigarettes, tobacco products, lottery tickets, concert tickets, professional or collegiate sporting event tickets, tickets for other entertainment events intended for the general public, or sexually oriented adult materials. No TANF cash assistance is allowed for use in a liquor store, casino, gaming establishment, jewelry store, tattoo or body piercing parlor, spa, massage parlor, nail salon, lingerie shop, tobacco paraphernalia store, vapor cigarette store, psychic or fortune telling business, bail bond company, video arcade, movie theater, swimming pool, cruise ship, theme park, dog or horse racing facility, parimutuel facility, or an adult sexually oriented retail business or entertainment establishment.

A photograph of a recipient on a Kansas benefits card issued by DCF, which is used to obtain food, cash, or other services, is to be placed on the benefits card only if agreed to by the recipient. If the recipient is a minor or otherwise incapacitated individual, a parent or guardian's photograph may be used instead. TANF cash assistance transactions using automated teller machines are limited to one \$25 transaction per day. (This limitation was modified in Senate Sub. for HB 2281.) No TANF cash assistance may be used for purchases at points of sale outside of the state. A benefits card with the recipient's photograph is a valid form of identification for voting purposes.

Child Care Assistance

The Secretary is required to adopt rules and regulations in determining the eligibility for the child care subsidy program and non-TANF child care support. DCF provides child care support, for a lifetime maximum of 24 months per adult, to persons studying for degrees or certification that have an average job outlook, as reported by the U.S. Bureau of Labor Statistics. Other educational pursuits require the discretionary approval of the Secretary. Students are required to work for a minimum of 15 hours per week; in a two-parent adult household, child care support is not provided if both are exclusively going to school at the same time.

Food Assistance

Food stamps are renamed food assistance, and eligibility is limited to citizens and qualified non-citizens as determined by the U.S. Department of Agriculture (USDA). Non-citizens who are unwilling or unable to provide documentation, as defined by USDA, are not included in their household sizes when benefits are calculated. No funds from federal or state sources are to be used for promoting food assistance. The Secretary is prohibited from requesting or implementing a food assistance waiver from USDA for able-bodied adults. The Secretary also is prohibited from enacting the state option from the USDA for broad-based categorical eligibility for households applying for food assistance. The Secretary is not permitted

to apply gross income standards for food assistance higher than the standards specified by federal law.

Any person convicted on or after July 1, 2015, of a felony involving controlled substances or their analogs is disqualified permanently from receiving food assistance. Individuals are eligible for food assistance if they enroll and participate in a drug treatment program approved by the Secretary. Individuals must submit to drug testing, if requested by DCF pursuant to a drug-testing plan. Failure to submit to a drug test or pass it results in ineligibility for food assistance until the individual complies with the drug treatment plan approved by the Secretary. The drug treatment plan exception does not apply to any individual convicted on or after July 1, 2015, of a second or subsequent felony involving controlled substances or their analogs.

Other Provisions

The eligibility requirements for general assistance funded by non-federal sources are repealed. The bill also repeals the requirement for a list of all recipients' names and addresses be made available to the public. Any statistics collected are to be reported in an aggregate, non-identifying nature. The Secretary is authorized to negotiate debts or liabilities owed to the agency for purposes of providing Title IV-D child support enforcement services. [See also the bill summary for Senate Sub. for HB 2281.]

Notice and Evaluation of Certain Construction Projects; HB 2267

HB 2267 revises the notice requirements and the evaluation of construction projects involving alternatives to the standard competitive bidding procedures for school districts, state agencies, and the Board of Regents. The respective board, or the Director of Facilities Management in the case of the State, must give notice of a request for qualifications (RFQ) or a request for proposal (RFP) to all active general contractor industry associations in Kansas at least 15 days prior to a hearing or the commencement of a request. Local boards of education also must give notice to the Associated General Contractors of Kansas. Under previous law, notice was published at least 15 days prior to a hearing or commencement in either the official school district newspaper or the *Kansas Register*, as applicable.

If a construction firm has been prequalified through an RFQ process, the firm submits a list of proposed fees directly and only to the Secretary of Administration. The Secretary scores and ranks the submitted proposals for the best value and reports the findings and makes a recommendation to the appropriate body charged with selecting a firm. The scores on fees and profits may not account for more than 25 percent of the total possible score.

With regard to the bidding processes for state agencies, the bill clarifies that a prequalified building design-builder is eligible to be paid a stipend for a proposal, as may have been established by the RFP, which was substantially responsive to the request but not accepted by the state agency. Under prior law, a stipend was paid without consideration given to the applicability of the proposal to the RFP.

With regard to projects under the responsibility of the Board of Regents, a construction manager or general contractor may self-perform construction services, at the discretion of the educational institution, if the firm's bid proposal is submitted prior to the receipt of all other bids. Under prior law, self-perform construction services were submitted under the same conditions for all competing firms.

Revisions to Kansas Civil Service Act; HB 2391

HB 2391 revises the Kansas Civil Service Act. To the existing list of unclassified positions specified in the Act, the bill adds persons in newly hired positions, including any employee who is rehired into a position and any current employee who voluntarily transfers, or is voluntarily promoted or demoted, into an unclassified position.

The following state agencies (including divisions or programs specified by the bill) may convert vacant classified positions into unclassified positions: the Board of Indigents' Defense Services; Department of Wildlife, Parks and Tourism; Department of Labor (Workers Compensation Division); Adjutant General (Division of Emergency Management); Kansas Department of Health and Environment; Real Estate Appraisal Board; Board of Healing Arts; Emergency Medical Services Board; Kansas Commission on Veterans Affairs Office (Veterans Claims Assistance Program); Kansas Department of Agriculture (Division of Water Resources and State Entomological Commission); State Corporation Commission; Board of Nursing; State Board of Mortuary Arts; Board of Barbering; Board of Tax Appeals; State Board of Cosmetology; Kansas Sports Hall of Fame; Department of Commerce (Creative Arts Industries Commission); Commission on Disability Concerns; Kansas Department for Children and Families (State Economic Opportunity Office and Drug Abuse Treatment and Prevention); State Board of Technical Professions; Behavioral Sciences Regulatory Board; State Lottery; Racing and Gaming Commission; Department of Administration (Architectural Services and Long-term Care Ombudsman); State Library; State Historical Society; Pooled Money Investment Board; Department of Transportation; Department of Revenue; Kansas Department for Aging and Disability Services (Mental Health and Developmental Disability Institutions); Department of Corrections (Juvenile Corrections); Kansas State School for the Deaf; and the Kansas State School for the Blind.

If federal law requires a state agency to maintain personnel standards on a merit basis and that agency has converted classified positions to unclassified positions, the state agency must adopt a binding statement of agency policy to meet the federal requirements. Civil Service Examination Monitors will be re-categorized as classified positions.

Increased Threshold for State Building Advisory Commission Action; HB 2395

HB 2395 increases the threshold of capital improvement costs to \$1 million before the Secretary of Administration must convene a meeting of the State Building Advisory Commission to prepare a list of at least three and no more than five qualified firms to be considered for the project. Under previous law, the Commission convened when the project costs were either at least \$750,000 for architectural services or \$500,000 for engineering services. The bill repeals the separate threshold amounts for architectural and engineering services.

TAXATION

Revenue Enhancements and Other Provisions; Senate Sub. for HB 2109, as amended by House Sub. for SB 270 and HB 2142

Senate Sub. for HB 2109, as amended by House Sub. for SB 270 and HB 2142, makes a number of changes in individual income, sales, and cigarette tax laws; amends motor vehicle registration and tax provisions; imposes certain restrictions on cities and counties with respect to future property tax increases; and enacts a special amnesty for a number of tax sources. The bills also enact a number of other minor tax-related provisions.

Individual Income Tax Provisions

Guaranteed Payments

The bill revises, effective for tax year 2015, an income tax subtraction modification for certain pass-through non-wage business income to require that guaranteed payments from businesses are counted as income in determining Kansas adjusted gross income.

Income Tax Rates

Individual income tax rate reductions scheduled for future years are decelerated. The tax year 2015 rates of 2.7 percent for the bottom tax bracket and 4.6 percent for the top tax bracket will now remain in effect through tax year 2017. The rates are set at 2.6 percent and 4.6 percent for tax year 2018. A special formula that could provide additional income tax rate relief as early as tax year 2021 is amended to relax the current trigger (2 percent growth in most State General Fund [SGF] tax receipts) to 2.5 percent plus a further adjustment to account for growth in certain Kansas Public Employee Retirement System expenditures.

Itemized Deductions

A number of changes are enacted for Kansas itemized deductions retroactive to January 1 (the start of tax year 2015). With the exception of charitable contributions, mortgage interest, and property taxes paid, all Kansas itemized deductions are repealed. The current changes in the percentage that may be deducted (“haircuts”) being phased in for mortgage interest and property taxes paid relative to the amount that otherwise is allowed for federal income tax purposes is accelerated such that the final 50 percent haircut currently scheduled for tax year 2017 is effective immediately for tax year 2015. (Charitable contributions remain fully deductible for Kansas taxpayers able to itemize at the state level.)

Low-Income Exclusion

A special low-income exclusion provision will become applicable in tax year 2016 that generally eliminates all positive income tax liability for single filers with taxable income of \$5,000 or less, and for married taxpayers filing jointly with taxable income of \$12,500 or less.

Individual Development Account Tax Credit

The bill restores, effective for tax year 2015, a tax credit that previously had been available for certain individual development account (IDA) contributions. That credit had been discontinued beginning in tax year 2013, pursuant to repeal in 2012 legislation.

ROZ Program

The Rural Opportunity Zone (ROZ) program, which provides an income tax exemption and the repayment of certain student loans for certain individuals who establish residency in selected counties, is extended for five additional years. The program had been scheduled to sunset in tax year 2017 but now will not sunset until tax year 2022.

Christmas Tree Net Gain

The bill creates a special subtraction modification from federal adjusted gross income in calculating Kansas adjusted gross income for the net gain from the sale of Christmas trees.

Social Security Number Requirement

The legislation requires an individual claiming a tax credit to have a valid Social Security number for the entire taxable year for which the tax credit is claimed. An exception to this requirement is provided for military spouses in the case of married taxpayers filing jointly.

Sales and Use Tax Provisions

The statewide sales tax and use tax rate is increased from 6.15 percent to 6.50 percent on July 1, 2015.

Cigarette Tax Provisions

The bill increases the cigarette tax by \$0.50 per pack (from \$0.79 to \$1.29 per pack) on July 1, 2015. An inventory tax equivalent to the rate increase is applicable for all cigarettes on hand as of July 1 and is due and payable by October 31.

“E-Cigs” Tax Implemented in 2016

The bill creates a new tax, effective July 1, 2016, on the privilege of selling or dealing electronic cigarettes at a rate of \$0.20 per milliliter of consumable material and a proportionate tax on all fractional parts thereof. The Secretary of Revenue is required to adopt rules and regulations to implement the new tax.

Amnesty Provisions

The bill authorizes a tax amnesty for penalties and interest relative to certain delinquent taxes provided such taxes are paid in full from September 1, 2015, to October 15, 2015. The

amnesty applies to privilege, income, estate, cigarette, tobacco products, liquor enforcement, liquor drink, severance, state sales, state use, local sales, and local use taxes. The amnesty is limited to penalties and interest applied to liabilities associated with tax periods ending on or before December 31, 2013.

The amnesty does not apply to any matter for which, on or after September 1, 2015, taxpayers have received notices of assessment or for which an audit had previously been initiated. Any fraud or intentional misrepresentation in connection with an amnesty application voids the application and waiver of any penalties and interest.

The Department of Revenue is authorized to promulgate rules and regulations or issue guidelines necessary to administer the amnesty provisions.

Motor Vehicle Registration and Tax Provisions

The bill requires the Department of Revenue to mail a copy of motor vehicle registration applications to owners, including all information required to register and pay by return mail. Counties are authorized to conduct mailings these requirements on their own as an alternative to the state procedure.

Property Tax Lid Provisions

Beginning in 2018, cities and counties are prohibited from adopting, absent mandatory elections, portions of their budgets funded with revenues from certain property tax increases. Generally, cities and counties in 2018 will be authorized to increase property taxes at the rate of inflation plus for a number of other exempt purposes (including costs associated with new infrastructure, certain property taxes levied for bonds and interest, certain road construction costs, special assessments, costs associated with federal or state mandates, and payment of judgments) prior to the triggering of the election mandate.

Other Provisions

Fire Districts

The bill further clarifies the property tax authority of fire districts with respect to their ability to levy more than certain specific limits that had been previously established.

Tax Credit For Low Income Students Scholarship Program Revisions

The Tax Credit for Low Income Students Scholarship Program Act is amended to allow scholarships to be distributed directly to the participating schools, limit the amount of money that may be distributed to \$8,000 per school year per child, remove a requirement that participating students waive special education services, and allow schools providing education to either elementary or secondary students to participate.

Land Bank Special Assessment Reamortization

The bill allows the governing body of any municipality that levies special assessments on property acquired by a land bank to enter into an agreement with the land bank to defer or reamortize all or part of the special assessments.

Relative to prior law, the bill is expected to have the following impact on SGF receipts:

(\$ in millions)

	FY 2016	FY 2017	FY 2018
Tax on Guaranteed Payments	\$ 23.700	\$ 19.200	\$ 20.100
Sales and Use Tax Changes	164.200	186.700	193.700
Itemized Deduction Changes	97.000	78.600	78.700
Tax Amnesty	30.000	0.000	0.000
Social Security Number Requirement	3.000	3.000	3.000
50-cent cigarette tax increase with e-cigarette tax	40.390	38.400	38.000
IDA Credit Reinstatement	(0.300)	(0.300)	(0.300)
Low-Income Exclusion	0.000	(19.400)	(19.900)
ROZ Sunset Extension	0.000	0.000	(0.560)
Individual Income Tax Rate Changes	26.400	98.600	232.500
TOTAL	\$ 384.390	\$ 404.800	\$ 545.240

Board of Tax Appeals Hearing Officers; HB 2240

HB 2240 repeals a prohibition enacted in 2014 on employees of the State Board of Tax Appeals (BOTA) being appointed by the Chief Hearing Officer of that body as hearing officers.

A second provision of the bill exempts from certain BOTA education requirements members who are state-certified general real property appraisers. Additional language clarifies that state-certified real property appraisers appointed to BOTA could immediately begin drawing their full salaries, removing them from a provision enacted in 2014 that does not allow members to be paid until the education requirements have been met.

TRANSPORTATION AND MOTOR VEHICLES

Safety and Economic Regulation of Commercial Motor Vehicles; SB 21

SB 21 amends the economic and safety regulation of commercial motor vehicles operated solely in intrastate commerce.

Economic Regulation

In law exempting certain motor carriers from requirements to obtain a certificate, license, or permit from the Kansas Corporation Commission (KCC) or file rates, tariffs, annual reports, or proof of insurance with the KCC (“economic regulation”), the bill replaces an exemption expiring July 1, 2015, for all commercial motor vehicles operating in intrastate commerce that weigh less than 26,001 pounds and meet certain restrictions. The bill exempts certain private motor carriers: those domiciled in Kansas; operating commercial motor vehicles with gross vehicle weights (GVW), gross vehicle weight ratings (GVWR), gross combination weights (GCW), or gross combination weight ratings (GCWR) of 10,000 to 26,000 pounds; and registered in Kansas. Under continuing law, the exemption in this bill is not applicable to commercial motor vehicles, regardless of weight, that are used to transport 16 or more passengers (including the driver); intrastate public (for-hire) carriers of property or passengers; or motor vehicles used in the transportation of hazardous materials and required to be placarded under federal law.

The bill defines “domicile” as the principal place of business of a motor carrier in law exempting these types of motor carriers from economic regulation: any private motor carrier operating within a 25-mile radius beyond its city of domicile; any taxi or bus company operating exclusively within any city or within a 25-mile radius beyond its city of domicile; and the private motor carriers described above.

Safety Regulation

The bill exempts certain specified motor carriers from the safety provisions of 49 CFR parts 390 through 399 adopted by reference in the KCC’s rules and regulations, rather than from “any” safety requirements in the KCC rules and regulations.

The bill replaces an exemption for commercial motor vehicles with GVW, GVWR, GCW, or GCWR of 26,000 pounds or less (expiring July 1, 2015) with an exemption for private motor carriers domiciled in Kansas operating commercial motor vehicles with GVW, GVWR, GCW, or GCWR of 10,001 to 26,000 pounds and registered in Kansas. The bill requires private motor carriers to comply with certain safety requirements regarding load securement, coupling devices, and vehicle inspection. The bill defines “domicile” the same way as in the economic regulation portion of the bill. Under continuing law, the exemption in this bill is not applicable to commercial motor vehicles, regardless of weight, that are used to transport 16 or more passengers (including the driver); intrastate public (for-hire) carriers of property or passengers; or motor vehicles used in the transportation of hazardous materials and required to be placarded under federal law.

Additional groups exempted from the safety provisions of 49 CFR parts 390 through 399 as adopted by reference in the KCC’s rules and regulations are those that have been exempted from any commercial motor vehicle safety rules and regulations of the KCC: the owner of livestock or producer of farm products transporting livestock or farm products under certain

circumstances; transporting children to and from school or motor vehicles owned by schools, colleges, religious and charitable organizations and institutions, or governmental agencies, when used to convey students or similar activities; certain grain transport vehicles; hearses, ambulances, and similar vehicles used by motor carriers; government vehicles; not-for-profit van pools using vehicles seating no more than 15, including the driver; and any vehicle used by a person actively engaged in buying, selling, or exchanging implements of husbandry within 100 miles of the person's established place of business, unless the implement of husbandry is transported on a commercial motor vehicle.

Home on the Range Highway; Provisions Relating to Signage; SB 43

SB 43 designates a portion of K-8 as the Home on the Range Highway. The designated portion of K-8 begins at the junction of K-8 with US-36 and continues north to the Nebraska state line, in Smith County, and is the paved road closest to the site where the song "Home on the Range" was written.

The bill establishes three provisions related to this signage:

- Requiring the Secretary of Transportation to place suitable signs to indicate the designation;
- Precluding the signs from being erected until the Secretary has received sufficient moneys from gifts and donations to reimburse the Secretary for the cost of placing the signs and an additional 50 percent of the initial cost to defray future maintenance or replacement of the signs; and
- Allowing the Secretary to accept and administer gifts and donations to aid in obtaining and installing suitable signs.

Definitions of Certain Off-Highway Vehicles; SB 73

SB 73 amends the definitions of three types of vehicles in a registration statute:

- All-terrain vehicle – The bill removes from the definition a requirement the seat be designed to be straddled by the operator and removes specifications for nonhighway tires to be used on the all-terrain vehicle;
- Recreational off-highway vehicle – The bill specifies a minimum width of more than 50 inches and removes requirements the vehicle have a nonstraddle seat and a steering wheel for steering control; and
- Work-site utility vehicle – The bill removes a maximum length requirement of 135 inches and replaces a requirement for low pressure tires with a requirement for nonhighway tires.

The definitions of "all-terrain vehicle" and "work-site utility vehicle" are amended in the same ways in the Uniform Act Regulating Traffic. (The Uniform Act does not include a definition of recreational off-highway vehicle.)

Amendments to Transportation Network Company Services Act; SB 101

SB 101 amends the Kansas Transportation Network Company (TNC) Services Act (Act), enacted in 2015 House Sub. for SB 117, which became effective on publication in the *Kansas Register* on May 14, 2015. The bill modifies the definition of a TNC; makes changes to the required actions by a TNC prior to permitting an individual to act as a driver on its digital network by removing language regarding local and national criminal background check requirements on the Kansas Bureau of Investigation (KBI) and eliminating the requirement that the individual provide proof of comprehensive and collision insurance coverage for personal vehicles subject to a lien; replaces the list of events disqualifying an individual as a TNC driver with an expanded list of disqualifying events; modifies language regarding the disclosure provided by a TNC to its TNC drivers in the prospective drivers' written terms of service with regard to lienholders' interests; requires a TNC driver to ensure the insurance coverage required by a lienholder on a vehicle used to provide TNC services is in effect; and removes obsolete language referencing an undefined Commission. Additional details are provided below.

The section addressing lienholders' interests takes effect on and after January 1, 2016. The remainder of the amendments take effect on publication in the statute book.

TNC Definition

The definition of a "transportation network company" is amended to remove language regarding licensure pursuant to the Act and the definition becomes a corporation, partnership, sole proprietorship or other entity operating in Kansas that uses a digital network to connect TNC riders to TNC drivers who provide prearranged rides. A TNC is not deemed to control, direct, or manage the personal vehicles or TNC drivers that connect to its digital network, except where agreed to by written contract.

Requirements Prior to Acting as a TNC Driver

The bill amends the actions required of a TNC prior to permitting an individual to act as a driver on its digital network to:

- Remove the requirement to obtain a local and national criminal background check on the individual, conducted by the KBI; and
- Remove the requirement, if the individual's personal vehicle is subject to a lien, that the individual provide proof to the lienholder and to the TNC of comprehensive and collision insurance coverage on the vehicle that covers the period when the individual is logged on to a TNC's digital network but not engaged in a prearranged ride (Period 1) and when the individual is engaged in a prearranged ride (Period 2).

The bill adds a list of disqualifying events that prohibit a TNC from permitting an individual to act as a driver on its digital network. The list of disqualifying events include permanent disqualifications and disqualifications occurring within an established period of time.

Disqualifications

A TNC is prohibited from permitting an individual to act as a TNC driver on its digital network who:

- Does not possess a valid driver's license;
- Does not possess proof of registration for the motor vehicle or motor vehicles used to provide a prearranged ride;
- Does not possess proof of automobile liability insurance for the personal vehicle or personal vehicles used to provide a prearranged ride;
- Is not at least 19 years of age;
- Has a permanent disqualification, as described below; or
- Has a disqualification that occurred within a specified time frame, described below as staged disqualifications.

Permanent Disqualifications

An individual is permanently disqualified as a TNC driver if he or she:

- Has been convicted of:
 - Any person felony described in statute in Article 34 or Article 54 of *Kansas Statutes Annotated* Chapter 21 (*i.e.*, capital murder, first or second degree murder, voluntary or involuntary manslaughter, assisting suicide, kidnapping or aggravated kidnapping, or aggravated assault);
 - Any sex offense described in statute in Article 35 or Article 55 of KSA Chapter 21 (*i.e.*, rape, criminal or aggravated criminal sodomy, sexual or aggravated sexual battery, indecent or aggravated indecent liberties with a child, indecent or aggravated indecent solicitation of a child, unlawful sexual relations, electronic solicitation, sexual exploitation of a child), or KSA 2014 Supp. 21-6419 through 21-6422 (*i.e.*, any sexual offense that is a crime against the public morals);
 - Identity theft, as described in KSA 2010 Supp. 21-4018, or KSA 2014 Supp. 21-6107;
 - Any attempt, conspiracy, or solicitation of any crime described above; or
 - A crime under the law of another jurisdiction that is substantially the same as the crimes described above; or
- Is registered on the National Sex Offender Registry, the Kansas Offender Registry, or any similar registry of any other jurisdiction.

Staged Disqualifications

An individual is disqualified as a TNC driver for a set period of time if he or she has:

- A combined total of more than three moving violations in Kansas or any other jurisdiction within the past three years;
- A traffic violation in Kansas or any other jurisdiction within the past three years of attempting to evade the police, reckless driving, or driving on a suspended license; or
- A conviction, adjudication, or placement on diversion, within the past seven years, of:
 - Driving under the influence of drugs or alcohol in Kansas or any other jurisdiction;
 - Any crime involving controlled substances, as described in KSA 2010 Supp. 21-36a01 through 21-36a17 or in statute in Article 57 of Chapter 21, or any violation of any provision of the Uniform Controlled Substances Act prior to July 1, 2009;
 - Theft, as described in KSA 2009 Supp. 21-3701 or KSA 2014 Supp. 21-5801;
 - Any crime involving fraud, dishonesty, or deceit, as described by the Kansas Criminal Code;
 - Any attempt, conspiracy, or solicitation of any crime described above; or
 - A violation of the law or ordinance of another jurisdiction, including any municipality, which is substantially the same as the crimes described above.

Lienholders' Interest

The bill adds that a TNC is required to disclose prominently, with a separate acknowledgment of acceptance, to its drivers in the prospective TNC drivers' written terms of service the following before the drivers are allowed to accept a request for TNC services on the TNC's digital platform: "If you are required by agreement with the lienholder to maintain comprehensive and collision insurance on the vehicle, using the vehicle for TNC services without such insurance coverage may violate your legal obligation to the lienholder under Kansas law."

In addition, if the vehicle used by a TNC driver is subject to a lien and the lienholder requires comprehensive and collision insurance in its agreement, the bill requires the TNC driver to ensure that such insurance is in effect and covers the periods when the TNC driver is logged on to a TNC's digital network but not engaged in a prearranged ride (Period 1) and when the TNC driver is engaged in a prearranged ride (Period 2).

The bill also deletes language (2015 House Sub. for SB 117) referencing an undefined commission that is prohibited from assessing fines for violations under this section of the Act.

Creation of Kansas Transportation Network Company Services Act; House Sub. for SB 117

House Sub. for SB 117 creates the Kansas Transportation Network Company Services Act (Act). The bill defines applicable terms; regulates transportation network companies (TNCs); establishes the responsibilities, requirements, and rights of the parties involved in prearranged rides; establishes automobile insurance coverage requirements for TNC drivers and vehicle owners, when applicable, and specifies when the coverage applies; provides for allowable insurance exclusions; provides for the protection of lienholder interests; and provides for driver background checks to be conducted by the Kansas Bureau of Investigation (KBI). The bill is amended with SB 101.

Definitions

The bill defines the following terms:

- “Transportation network company” or “TNC” means a corporation, partnership, sole proprietorship or other entity that is licensed pursuant to this Act and operating in Kansas that uses a digital network to connect TNC riders to TNC drivers who provide prearranged rides. A TNC is not deemed to control, direct or manage the personal vehicles or TNC drivers that connect to its digital network, except where agreed to by written contract;
- “Personal vehicle” means a vehicle that is used by a TNC driver in connection with providing a prearranged ride and is:
 - Owned, leased, or otherwise authorized for use by the TNC driver; and
 - Not a taxicab, limousine, or for-hire vehicle.
- “Digital network” is defined as any online-enabled application, software, website, or system offered or utilized by a TNC that enables the prearrangement of rides with TNC drivers;
- “Prearranged ride” means the provision of transportation by a driver to a rider that begins when a driver accepts a ride requested by a rider through a digital network controlled by a TNC, continues through the transportation of a requesting rider, and ends when the last requesting rider departs from the personal vehicle. Transportation by taxi, limousine, or other for-hire vehicle is not included;
- “TNC driver” or “driver” is an individual who:
 - Receives connections to potential passengers and related services from a TNC in exchange for payment of a fee to the TNC;
 - Uses a personal vehicle to provide services for riders matched through a digital network controlled by a TNC; and
 - Receives, in exchange for providing the passenger a ride, compensation that exceeds the individual’s cost to provide the ride;

- “TNC rider” or “rider” is an individual who uses or persons who use a TNC’s digital network to connect with a TNC driver for prearranged rides to the rider in the driver’s personal vehicle between points chosen by the rider; and
- “Vehicle owner” is the owner of a personal vehicle.

TNC Requirements

Exclusion as Motor Carrier, Taxicab, For-Hire, or Commercial Vehicle

TNCs or drivers meeting the requirements of the Act are not considered motor carriers, private motor carriers, or public motor carriers of passengers, nor determined to provide taxicab or for-hire vehicle service. A driver is not required to register a personal vehicle used for prearranged rides as a commercial or for-hire vehicle.

Agent for Service

The TNC is required to maintain an agent for service in the state.

Disclosures to Rider

A TNC is required to provide the rider with the following:

- Fare calculation method, disclosed on its digital network, for any fare charged;
- Applicable rates being charged;
- The option to receive an estimated fare before the rider enters the driver’s personal vehicle;
- Driver’s picture and the license plate number of the personal vehicle used for providing prearranged rides, displayed on the TNC’s digital network, prior to the rider entering the driver’s vehicle; and
- An electronic receipt, within a reasonable time after completion of a trip, that lists the following information regarding the trip:
 - Origin and destination;
 - Total time and distance; and
 - An itemization of the total fare paid, if any.

Automobile Insurance Requirements

On and after January 1, 2016, a TNC driver or vehicle owner or TNC on the driver's behalf is required to maintain primary automobile insurance that recognizes the driver is a TNC driver and covers the driver while logged on to the TNC's digital network, engaged in a prearranged ride, or transporting a passenger for compensation.

The coverage requirements for Periods 1 and 2, as described below, are satisfied by automobile insurance maintained by the TNC driver or vehicle owner or by the TNC, or by a combination of both.

Period 1

While a TNC driver is logged on to the digital network and available to receive transportation requests but not engaged in a prearranged ride, the following automobile insurance requirements apply:

- Primary automobile insurance of at least \$50,000 for death and bodily injury per person and \$100,000 per incident, and \$25,000 for property damage; and
- Primary automobile liability insurance that meets the minimum coverage requirements where required by statutes relating to uninsured and underinsured motorist coverage and motor vehicle liability insurance coverage.

Period 2

While a TNC driver is engaged in a prearranged ride, the following automobile insurance requirements apply:

- Primary automobile insurance that provides at least \$1,000,000 for death, bodily injury, and property damage; and
- Primary automobile liability insurance that meets the minimum coverage requirements where required by statutes relating to uninsured and underinsured motorist coverage and motor vehicle liability insurance coverage.

If the insurance maintained by the driver or vehicle owner, as described in Periods 1 and 2 above, has lapsed or does not provide the required coverage, the insurance maintained by the TNC provides the coverage required beginning with the first dollar of a claim, and the TNC has the duty to defend the claim. Coverage by an automobile insurance policy maintained by the TNC does not depend on a personal automobile insurer first denying a claim, nor is a personal automobile insurance policy required to first deny a claim.

The bill provides that the required insurance may be placed with an insurer licensed under state law, or with an eligible surplus lines insurer. Insurance meeting the requirements of the Act is deemed to satisfy the financial responsibility requirement for a personal vehicle under the Kansas Automobile Injury Reparations Act.

At all times during the use of a vehicle in connection with a TNC's digital network, the driver is required to carry proof of insurance meeting the requirements of the Act. In the event of an accident and upon a request pursuant to statutes relating to insurance verification, the driver is required to provide to the directly interested parties, automobile insurers, and investigating police officers the insurance coverage information and whether the driver was logged on to the digital network or on a prearranged ride at the time of the accident.

TNC Required Disclosure to Driver

The following information is required to be disclosed in writing by the TNC to the driver before the driver is allowed to accept a request for a prearranged ride on the digital network:

- Insurance coverage, including the types of coverage and limits for each coverage, provided by the TNC to the driver using a personal vehicle in connection with the digital network; and
- Notice that the driver's own automobile insurance policy, depending on its terms, might not provide any coverage while the driver is logged on to the digital network and available to receive transportation requests or is engaged in a prearranged ride (Periods 1 and 2).

Insurers' Allowable Exclusions

Insurers writing automobile insurance in the state are allowed to exclude any and all coverage under the driver's or vehicle owner's insurance policy for any loss or injury occurring while the driver is logged on to a TNC's digital network or providing a prearranged ride. The bill provides a list of the coverage included in the automobile insurance policy an insurer is allowed to exclude. The exclusions apply regardless of any requirement under the Kansas Automobile Injury Reparations Act.

The bill clarifies the Act does not imply or require a personal automobile insurance policy to provide coverage while the driver is logged on to a digital network, engaged in a prearranged ride, or otherwise using a vehicle to transport passengers for compensation. An insurer is allowed to provide coverage for the TNC driver's vehicle, if the provider chooses to do so by contract or endorsement.

Automobile insurers excluding coverage as permitted under the bill have no duty to defend or indemnify any claim expressly excluded. The Act is not deemed to invalidate or limit an exclusion contained in a policy. An automobile insurer defending or indemnifying a claim against a driver excluded under the terms of its policy, as allowed under the Act, has the right of contribution against other insurers providing automobile insurance to the same driver in satisfaction of the required coverage under the automobile insurance requirements portions of the Act at the time of loss.

In a claims coverage investigation, the bill requires TNCs and any insurer potentially providing coverage under the Act's automobile insurance requirements to cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of the TNC driver if applicable, including precise times the driver logged on and off the digital network in the 12-hour period immediately preceding and the 12-hour period immediately following the

accident and to disclose to one another a clear description of the coverage, exclusions, and limits provided under any automobile insurance maintained under the Act.

TNC Requirements of Driver

Zero Tolerance Policy on Use of Drugs or Alcohol

The TNC is required to implement a zero tolerance policy on the use of drugs or alcohol while a driver is providing a prearranged ride or logged into the digital network, but not providing a prearranged ride. The TNC is required, on its website, to provide notice of the zero tolerance policy and procedures for a rider to report a complaint about a driver with whom the rider is matched and reasonably suspects was under the influence of drugs or alcohol during the course of the trip.

Upon receipt of a complaint regarding an alleged violation of the zero tolerance policy, the TNC is required to immediately suspend the driver's access to the digital network and to conduct an investigation. The suspension lasts the duration of the investigation. The TNC is required to maintain records pertaining to the enforcement of the zero tolerance policy for at least two years from the date of receipt of a passenger complaint.

Driver Requirements

Requirements Prior to Acting as TNC Driver

The TNC is required to take the following actions prior to allowing an individual to act as a driver on its digital network:

- Require the individual to submit an application to the TNC, including information regarding the applicant's address, age, driver's license, driving history, motor vehicle registration, automobile liability insurance, and other information required by the TNC;
- Obtain a local and national criminal background check on the individual, conducted by the KBI as outlined in the bill:
 - The Attorney General is required to release fingerprints to the KBI for the purpose of conducting criminal history records checks, utilizing the files and records of the KBI and the Federal Bureau of Investigation; and
 - Each individual is subject to a state and national criminal history records check which conforms to applicable federal standards for the purpose of verifying the identity of the individual and whether the individual has been convicted of any crime that disqualifies the individual from being a TNC driver;
- Obtain and review the applicant's driving history research report; and
- If the individual's personal vehicle is subject to a lien, require the individual to provide proof to the lienholder and to the TNC of comprehensive and collision

insurance coverage on the vehicle that covers the period when the individual is logged on to a TNC's digital network but not engaged in a prearranged ride (Period 1) and when the individual is engaged in a prearranged ride (Period 2).

The bill provides for conditions under which a TNC is not allowed to permit an individual to act as a driver on its digital network. One such condition is the driver is not at least 19 years of age.

Other Driver Requirements

The bill requires the motor vehicle used by a driver to provide prearranged rides to meet the equipment requirements applicable to private motor vehicles under the state Uniform Act Regulating Traffic. The driver is allowed to provide only prearranged rides and is not allowed to solicit or accept street hails.

TNC Policy Prohibiting Solicitation or Acceptance of Cash Payments

The TNC is required to adopt a policy prohibiting solicitation or acceptance of cash payments from riders and notify the drivers of the policy, and the drivers are required to follow the policy. Only electronic payments using the TNC's digital network are allowed.

TNC Policy of Non-Discrimination

The TNC is required to adopt a policy of non-discrimination with respect to riders and potential riders and notify the drivers of the policy. The drivers are required to comply with all applicable laws regarding non-discrimination against riders or potential riders and relating to accommodation of service animals. The driver is not allowed to impose additional charges for providing services to individuals with physical disabilities because of those disabilities.

The TNC is required to provide riders an opportunity to indicate the need for a wheelchair-accessible vehicle. If a TNC cannot arrange wheelchair-accessible TNC services, it is required to direct the rider to an alternate provider of such service, if available.

TNC Records Maintenance

The TNC is required to maintain individual trip records for at least one year from the date the trip is provided. In addition, the TNC is required to maintain driver records at least until the one-year anniversary of the date on which the driver's activation on the digital network ends.

Confidentiality of Rider Information

The TNC is prohibited from disclosing a rider's personally identifiable information to a third party unless the rider consents or a legal obligation to disclose exists, or disclosure is required to protect or defend the terms of the use of the service or to investigate violations of the terms. The TNC is allowed to share a rider's name or telephone number with the driver providing prearranged rides for the purpose of facilitating correct identification of the rider or communication between the rider and the driver.

Lienholders' Interest

Before the drivers are allowed to accept requests for TNC services on the TNC's digital network or software application, a TNC is required to disclose the following to its drivers in the prospective TNC drivers' written terms of service: "If the vehicle you plan to use to provide transportation network services has a lien against it, using the vehicle for transportation network company services may violate the terms of your contract with the lienholder."

Payment made by a TNC's insurer for a claim covered under comprehensive coverage or collision coverage is required to be made directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the covered vehicle. The Commission is not allowed to assess any fines as a result of a violation of this requirement.

The bill took effect upon publication in the *Kansas Register*.

Highway and Bridge Designations; Provisions Relating to Signage; SB 127

SB 127 requires the Secretary of Transportation, before placing any signs commemoratively designating any road, highway, bridge, interchange, or trail, to receive sufficient money from gifts and donations to cover the costs of placing such signs plus an additional 50 percent of the initial cost to defray future maintenance or replacement costs. The Secretary is authorized to accept gifts and donations toward those costs.

The bill also designates four portions of highway:

- The 2nd Lieutenant Justin L Sisson Memorial Highway, a portion of U.S. 69 in Johnson County that begins at 135th Street and continues to 167th Street (2nd Lieutenant Sisson, decorated for his military service, was killed in action in Afghanistan in June 2013.);
- The George Ablah Expressway, on K-96, from the junction of K-96 and I-35, east to the junction of K-96 and Rock Road, in Sedgwick County. (Mr. Ablah was a successful businessman who donated land to Wichita.) The bill removes from that portion of K-96 the designation of Bonnie Huy Memorial Highway. The portion of K-96 from the junction of K-96 and Rock Road in Sedgwick County, east to the junction with I-35 is designated as the Bonnie Huy Memorial Highway;
- The Kenneth W Bernard Memorial Highway, on K-7 in Lansing. (Mr. Bernard was the Mayor of Lansing for 29 years before retiring in January 2013.) The bill removes from that portion of K-7 the designation of the Amelia Earhart Memorial Highway. The portion of K-7 north to the southern city limits of Lansing, then north from the northern city limits of Lansing to the eastern junction with US-159 is designated as the Amelia Earhart Memorial Highway; and
- The Bert Cantwell Memorial Interchange, the junction of interstate highway 70 and 110th street in Wyandotte County. (Mr. Cantwell served as the Sheriff of Wyandotte County, U.S. Marshal for the district of Kansas, Superintendent of the Kansas Highway Patrol, and President of the Kansas City, Kansas, Chamber of Commerce.)

The provisions related to payments for signs apply to the new designations.

Motor Carrier Civil Penalty Procedures; SB 150

SB 150 allows a duly authorized representative of a corporation or an attorney to enter an appearance and represent a motor carrier before the Kansas Corporation Commission (KCC) if the civil penalty for violation of the applicable statute, KCC order, or KCC motor carrier rule and regulation is \$500 or less.

Commercial Driver's License Driving Test Fee; Use of Vehicle Registration Receipt; HB 2013

HB 2013 creates a commercial driver's license (CDL) driving test fee and allows use of a receipt to prove timely registration of a private vehicle under certain circumstances.

CDL Driving Test Fee

The bill establishes a \$15 driving test fee for the drive test portion of the CDL application. It also establishes an additional \$10 fee if a CDL applicant failed and must retake the pre-trip, skills test, or road test portion of the driving test.

The new fees will be remitted to a Commercial Driver's License Drive Test Fee Fund (Fund) created by the bill. The bill requires moneys credited to that Fund to be used by the Kansas Department of Revenue (KDOR) only for funding the administration and operation of the CDL drive test, including software and equipment maintenance, software enhancement, equipment purchase, acquisition and maintenance of one or more test tracks or courses for conducting a driving test, training, and marketing associated with CDL issuance. Expenditures will be made in accordance with appropriation acts. The bill states moneys credited to the Fund shall be used to supplement existing appropriations and shall not be used to supplant State General Fund or other special revenue fund appropriations to the KDOR.

Receipt as Proof of Vehicle Registration

The bill amends motor vehicle registration law to allow a person to provide proof of current private passenger vehicle registration using a receipt in lieu of a decal on the license plate, for no more than ten days following expiration of registration. The required receipt will be a printed payment receipt or an electronic payment receipt from an online electronic payment processing system. Any charge for failing to display a registration decal up to and including the tenth day following expiration of registration will be dismissed if the person produces a registration receipt for the current 12-month registration period in court. The bill specifies the provisions above also apply to a truck that can be registered using the online system (generally, a truck of not more than 12,000 pounds registered as a private rather than a commercial vehicle). The provisions do not apply to proof of registration of any vehicle registered as a commercial motor vehicle or as part of a commercial motor vehicle fleet.

Defining Autocycles; Omega Psi Phi License Plate; HB 2044

HB 2044 establishes the definition and requirements for “autocycles” and creates the Omega Psi Phi distinctive license plate.

Autocycles

The bill establishes the definition for “autocycle” as a three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it. The bill exempts persons under the age of 18 years from requirements otherwise applicable to motorcycle use to wear a helmet and eye-protective devices while riding in or operating an autocycle. Class M motor vehicles will not include autocycles for driver’s license purposes.

The bill requires each occupant age 14 years and older of an autocycle manufactured with seat belts to have a seat belt properly fastened around the person’s body when the vehicle is in motion. The bill also requires a child younger than 14 years to be properly restrained within an autocycle as the child would be in a passenger car. Failure to properly restrain a child in an autocycle as required will be a violation of the Child Passenger Safety Act.

Omega Psi Phi License Plate

The bill authorizes the Omega Psi Phi distinctive license plate. Any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less may apply for the new plate on and after January 1, 2016, after paying annual vehicle registration fees and a logo use royalty fee between \$25 and \$100 to Omega Psi Phi. The bill requires Omega Psi Phi to design and pay the initial cost of silk-screening for the license plates. Payments from the Omega Psi Phi royalty fund will be made on a monthly basis to the appropriate designee of Omega Psi Phi.

Kansas Turnpike Authority Contracts and Operations; HB 2085

HB 2085 amends provisions related to the relationship between the Kansas Department of Transportation (KDOT) and the Kansas Turnpike Authority (KTA) in these ways:

- The bill designates the Secretary of Transportation (Secretary) as the director, rather than the director of operations, of the KTA. The bill also removes a July 1, 2016, sunset on the Secretary being in that position;
- The bill removes a July 1, 2016, effective date for provisions authorizing the Secretary and KTA to contract with each other (generally, allowing KTA to contract with KDOT for use of KDOT resources for certain types of work related to KTA projects), allowing the provisions to become effective with the bill; and
- The bill removes a July 1, 2016, sunset date for a section of law authorizing the KTA and the Secretary to take actions to minimize duplication of effort.

The bill also changes a KTA reporting requirement. The KTA has made an annual report to the Governor before March 31, for the preceding calendar year. The bill requires the report be

made prior to the tenth day of each regular legislative session and to cover the preceding fiscal year.

Vehicle Registration; CDL Codes; Custom Harvester Vehicle Length; Senate Sub. for HB 2090

Senate Sub. for HB 2090 amends several laws related to vehicle registration, adds endorsement codes for commercial driver's licenses (CDLs), and amends a vehicle length limit specific to custom harvester equipment.

Vehicle Registration

The bill makes these changes related to vehicle registration:

- **License plate registration decals.** The bill removes the requirement that each license plate registration decal issued be numbered serially in each county. The bill instead requires the decal to indicate the license plate number to which the decal is to be affixed.
- **Apportioned fleet registration.** The bill amends the mileage fee and application requirements for apportioned fleet registration. The bill eliminates language requiring a fleet to estimate annual in-state and total fleet miles. The bill requires mileage applications and fees to be charged according to the International Registration Plan (Plan). The bill also requires all mileage calculations to comply with the rules of the Plan.
- **Reports of permanently registered vehicles.** The bill repeals the requirement for each city, county, township, school district, community college, or technical college to file an annual report with the Division of Vehicles identifying the vehicles with permanent registration that a governmental entity owns or leases. This information is available from the vehicle registration system.

CDL Codes

The bill adds seven vehicle endorsement and restriction codes to be designated on CDLs:

- "E" – no manual transmission in a commercial motor vehicle (CMV);
- "O" – no tractor-trailer;
- "M" – no class A passenger vehicle;
- "N" – no class A or B passenger vehicle;
- "Z" – no full air brake in CMV;

- “K” – for intrastate only; and
- “V” – for medical variance.

The adoption of the additional codes is required for Kansas law to meet federal requirements for CDLs.

Custom Harvester Vehicle Combination Length

The bill adds forage cutter and combine header to combine in the items used in custom harvesting operations that, when transported using a truck and trailer combination or other specified combination, can exceed the general vehicle combination length limit of 65 feet but not exceed an overall length of 75 feet, exclusive of front and rear overhang.

Clay County Vietnam Veterans Bridge; HB 2103

HB 2103 designates bridge No. 14(030) on K-15 in Clay County as the Clay County Vietnam Veterans Bridge.

The signs designating the bridge will be placed once the Secretary of Transportation has received sufficient moneys from gifts and donations to pay for the cost associated with the signs; the Secretary also must receive 50 percent of the overall cost of the signs, before the signs are placed, to defray future maintenance or replacement costs of the signs.

VETERANS AND MILITARY

Kansas Code of Military Justice—Nonjudicial Punishment; SB 290

SB 290 revises the statute governing nonjudicial punishment under the Kansas Code of Military Justice. The bill restructures a number of provisions within the statute or clarifies existing language without making substantive changes. Other provisions are restructured and changed substantively, as follows:

- The amount of time that extra duties, withholding of privileges, or restrictions could be imposed as punishment is increased;
- Forfeitures and fines are changed from dollar amounts to days of pay and limits increased;
- The ability to reduce pay grades is increased;
- Arrest in quarters for up to 30 days is added as a punishment option;
- A provision limiting the total length of consecutive punishment and requiring apportionment of punishments is added;
- The governor, adjutant general, or an officer of a general or flag rank is allowed to delegate the powers under the bill;
- A provision allowing the governor to limit the powers under the section by regulation is removed;
- A provision is added allowing regulations to prescribe the form of records to be kept of proceedings under the section and to require certain categories be in writing;
- For appeals to the next superior authority, the bill requires a person punished to make such appeal within 15 days, and punishment will be stayed until final action is taken on the appeal;
- The authority acting on the appeal is required to refer the case to a judge advocate for consideration and advice;
- A provision providing the right to court martial in lieu of punishment under this section is narrowed to apply only if punishment may include arrest in quarters or restriction; and
- The bill clarifies punishment under this section is not a bar to trial by a civilian court of competent jurisdiction.

Public Parking Facility; Disabled Veterans; HB 2006

HB 2006 grants free parking privileges to disabled veterans who have disabled veteran license plates. Qualifying disabled veterans are able to park free of charge in spaces clearly marked as reserved for disabled persons in public parking facilities and public parking lots that employ parking attendants to collect payment.

Permissive Veterans' Preference in Private Employment, Employment Reinstatement, In-state Tuition, Professional Credentialing, Municipal and District Court Diversion, Court-Ordered Treatment, and Sentencing; HB 2154

HB 2154 establishes a permissive veterans' preference in private employment; establishes employment reinstatement protections for certain service members; provides in-state tuition to certain military personnel and their family members; modifies the statute relating to professional credentialing for military service-members and military spouses; and amends statutes related to diversions, court-ordered treatment, and sentencing with regard to military service members.

Permissive Veterans' Preference in Private Employment

The bill authorizes a private employer to adopt a policy to give a hiring preference to a veteran who meets the requirements of the job. The bill requires such a policy to be in writing and to be applied consistently to all decisions regarding initial employment. Veterans are required to provide the employer with proof of military service and proof of honorable discharge or general discharge under honorable conditions from military service.

Employment Reinstatement

The bill also provides employment reinstatement protections to any person employed in Kansas who is called or ordered to state active duty by Kansas or any other state, whether the person is a member of the Kansas Army National Guard, the Kansas Air National Guard, or other military force of Kansas or any other state. To receive these employment protections, a person eligible under the bill must comply with other requirements in continuing law, including provision of adequate notice to the employer and release from state active duty under honorable conditions. The law had provided employment protections only to persons called or ordered to duty by the State of Kansas who are members of a Kansas military force.

In-State Tuition for Certain Military Personnel, Veterans, and Military Family Members

The bill grants in-state tuition and fees to current military personnel, National Guard personnel, veterans, military spouses, and dependents who are attending post-secondary education institutions and are eligible to receive educational assistance under federal law granting such assistance to veterans, regardless of their length of residency in Kansas. In order to receive in-state tuition and fees, the person must be continuously enrolled and file a letter of intent to establish residency in Kansas.

Professional Credentialing for Military Service Members and Military Spouses

The bill modifies statutory provisions related to professional credentialing for military service members and military spouses. The bill also inserts a time frame in continuing law that requires any professional licensing body, with the exception of those regulating the legal profession, to issue a license, registration, or certification by endorsement, reinstatement, or reciprocity to a military service member or nonresident military spouse. Under the bill, the licensing body is required to issue the license within 60 days after a complete application is submitted; former law did not specify a time frame. The bill also extends from three months to six months the amount of time a service member or military spouse may have a license on a probationary basis when the licensing body does not have licensure, registration, or certification by endorsement, reinstatement, or reciprocity and the service member or military spouse meets certain criteria. The bill also permits a licensing body to grant licensure to any person who meets the requirements under this section but was separated from the military under less than honorable conditions.

Municipal and District Court Diversion

The bill expands the list of factors that must be considered by prosecuting attorneys when determining whether to enter into a diversion agreement with a defendant, by including the following factors:

- Whether there is a probability the defendant committed the crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder, or traumatic brain injury (all terms defined below) connected to service in a combat zone while in the U.S. Armed Forces; and
- If so, whether there is a probability the defendant will cooperate with and benefit from inpatient or outpatient treatment in a facility operated by the U.S. Department of Defense, the U.S. Department of Veterans Affairs, or the Kansas National Guard, with the defendant's consent, as a condition of diversion.

Court-Ordered Treatment

Former law had allowed a defendant, at the time of conviction or prior to sentencing, to assert the offense was committed as a result of mental illness stemming from service in a combat zone while in the U.S. Armed Forces. If the court determines the defendant meets certain criteria, and would fall within a presumptive non-prison category under sentencing guidelines, the court may order the defendant to undergo inpatient or outpatient treatment in facilities or programs operated by the U.S. Department of Defense, the U.S. Department of Veterans Affairs, or the Kansas National Guard.

The bill makes the following changes:

- Replaces the term "mental illness" with the phrase "injury, including major depressive disorder, polytrauma, post-traumatic stress disorder, or traumatic brain injury" and provides the following definitions:

- “Major depressive disorder” and “post-traumatic stress disorder” mean the same as the terms are defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5, 2013);
- “Polytrauma” means injury to multiple body parts and organ systems that occurred as a result of events during the defendant’s service in one or more combat zones; and
- “Traumatic brain injury” means injury to the brain caused by physical trauma that occurred as a result of events during the defendant’s service in one or more combat zones;
- Eliminates from the qualifying criteria the requirement that the defendant separated from the armed forces with an honorable discharge or general discharge under honorable conditions; and
- Provides an alternative for a defendant who meets the qualifying criteria but is ineligible for treatment in facilities or programs operated by the U.S. Department of Defense, the U.S. Department of Veterans Affairs, or the Kansas National Guard. If a court determines such defendant meets the requirements for treatment under the alternative sentencing provisions of 2003 SB 123 (applicable to certain nonviolent offenders convicted of drug possession), the statutes pertaining to SB 123 must apply.

Sentencing

The bill expands the nonexclusive list of mitigating factors a sentencing judge may consider in determining whether to depart from the presumptive sentence provided by sentencing guidelines. In addition to the mitigating factors in continuing law, the judge could consider whether the offender committed the crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder, or traumatic brain injury connected to service in a combat zone while in the U.S. Armed Forces.

Research and Treatment for Veterans’ Descendants on Toxic Exposure; HR 6026

HR 6026 urges the U.S. Congress to enact and the President of the United States to sign 2015 S901 or 2015 HR 1769, the Toxic Exposure Research Act of 2015 (Act). The Act would establish in the Department of Veterans’ Affairs a national center for research on the diagnosis and treatment of health conditions of descendants of veterans who were exposed to toxic substances with unknown consequences while serving in the U.S. Armed Forces, and would create a database of birth defects and anomalies. The resolution states exposure to these toxins resulted in illnesses to the veterans exposed, structural and nonstructural birth defects in the veterans’ descendants, and health conditions, both cancerous and noncancerous, in the veterans’ descendants.

APPROPRIATION BILLS

House Sub. for SB 4, House Sub. for SB 7, House Sub. for SB 112, and HB 2005 include funding for claims against the state, FY 2015 supplemental expenditures for some state agencies, and FY 2016 and FY 2017 operating expenditures and capital improvements for all state agencies.

TECHNICAL BILLS

- SB 8** The bill repeals the law establishing a school district audit team within the Legislative Division of Post Audit (LPA) and requiring the LPA to conduct performance audits and monitor school district funding and other oversight issues through audit work, as directed by the 2010 Commission (the 2010 Commission has expired).
- Senate Sub. for HB 2094** This bill reconciles amendments to statutes that have been amended more than once during the 2015 Legislative Session and previous sessions. The bill combines non-contradictory amendments from enacted legislation to produce one version of the statute.
- HB 2142** The bill clarified the effective date for the new local government election requirements pertaining to certain property tax increases provided by Senate Sub. for HB 2109, as amended by House Sub. for SB 270, to be January 1, 2018.

BILLS VETOED BY THE GOVERNOR

House Sub. for SB 112 This bill includes funding for claims against the state; FY 2015, FY 2016 and FY 2017 expenditures for most state agencies; and FY 2016 and FY 2017 capital improvements for selected state agencies. The bill contains the following line item vetoes.

Kansas Board of Regents (Line item) State General Fund Transfer - Sections 142(f) and 143(f) would have transferred \$1.9 million from the State General Fund to the Post Secondary Education Performance-based Incentives Fund of the State Board of Regents in FY 2016 and FY 2017.

BILLS VETOED BY THE GOVERNOR, BUT OVERRIDDEN

House Sub. for SB 117 This bill creates the Kansas Transportation Network Company Services Act. (The bill also is amended with SB 101.)

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